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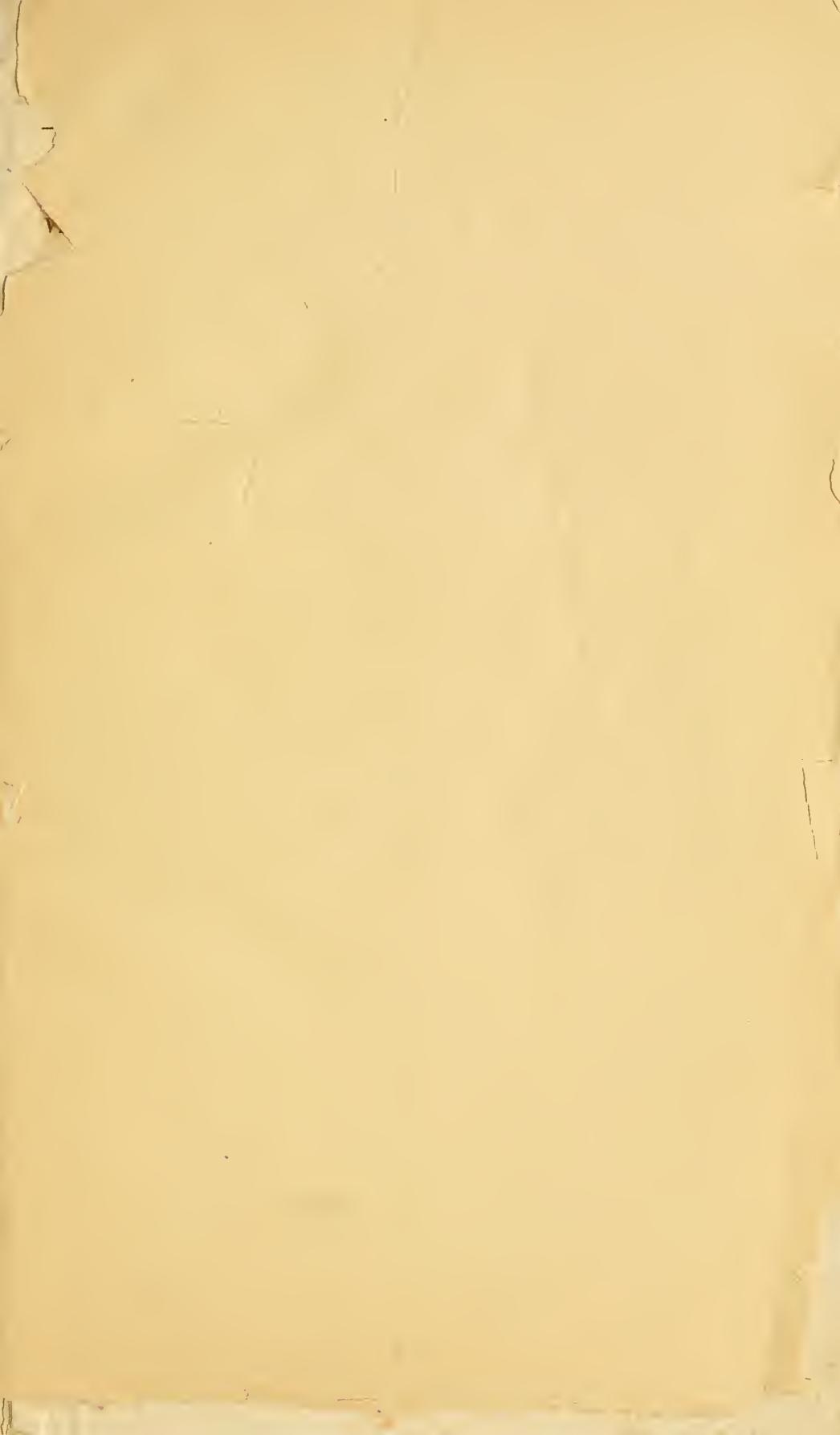
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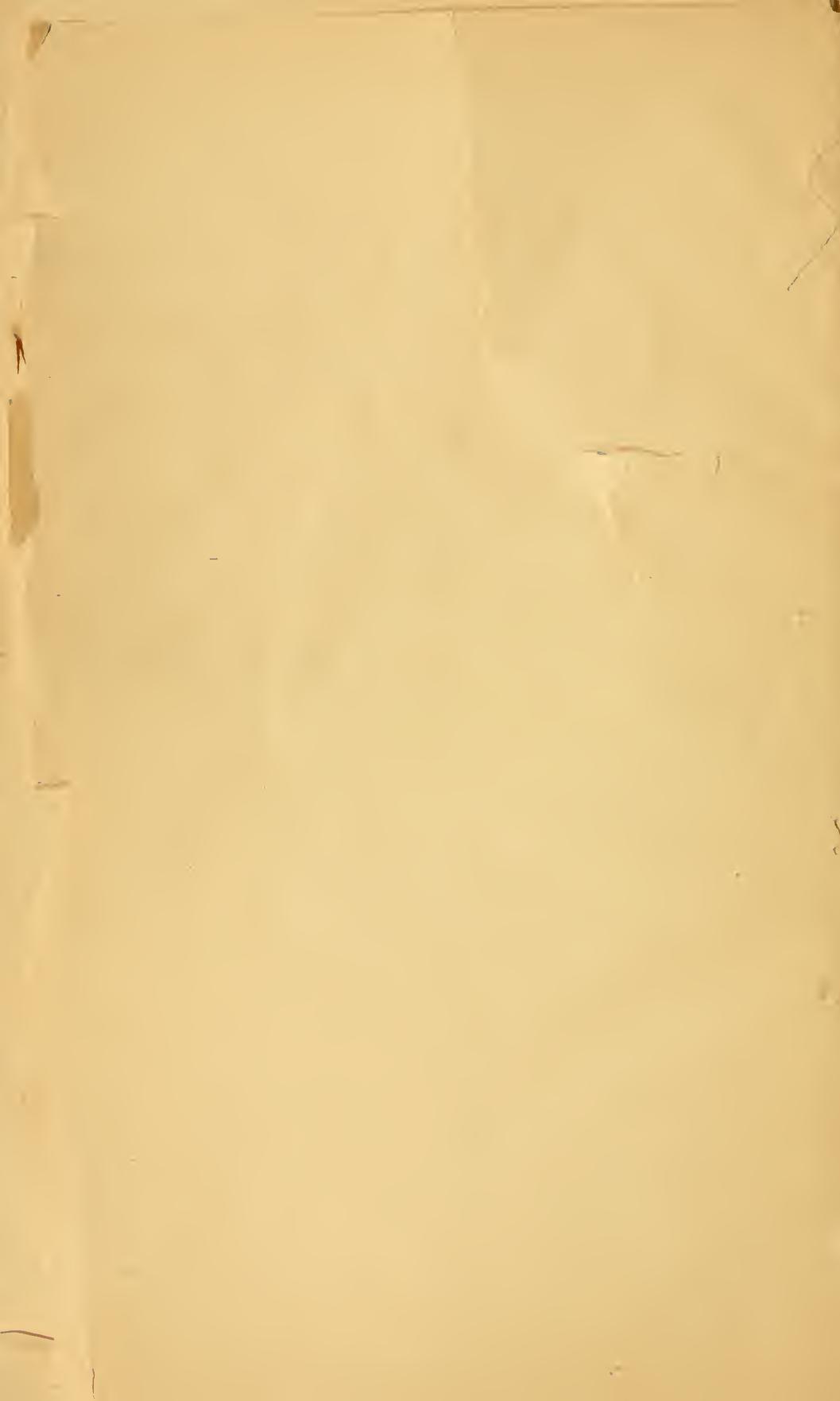


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26th CONGRESS,  
1st Session.

Rep. No. 436.

Ho. of Reps.

VIRGINIA REVOLUTIONARY CLAIMS—BOUNTY LAND AND  
COMMUTATION PAY.

APRIL 24, 1840.

Ordered to be laid on the table, and that 2,000 extra copies be printed.

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Mr. HALL, from the Committee on Revolutionary Claims, to which the subject had been referred, submitted the following

REPORT :

*To which is added, " Views of the minority of said committee."*

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,  
March 5, 1840.

On motion of Mr. Hall, from the Committee on Revolutionary Claims,  
*Resolved*, That the Committee on Revolutionary Claims be instructed to inquire into the character and amount of proof which is required by existing laws and regulations to establish claims on the United States for revolutionary services in the Virginia continental line and navy; and whether any and what further legislative provisions be necessary in regard to the mode of adjusting and allowing claims for such services; and that the report of a select committee on the same subject, made at the last session, with the papers accompanying said report, be referred to the said Committee on Revolutionary Claims.

Attest:

H. A. GARLAND, Clerk.

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## REPORT OF THE MAJORITY.

The Committee on Revolutionary Claims, consisting of Mr. Craig of Va., Mr. Randolph of N. J., Mr. Hall of Vt., Mr. Taliaferro of Va., Mr. Parmenter of Mass., Mr. Montgomery of N. C., Mr. Rogers of S. C., Mr. Ely of N. Y., and Mr. Swearingen of Ohio, who were instructed "to inquire into the character and amount of proof which is required by existing laws and regulations to establish claims on the United States for revolutionary services in the Virginia continental and State lines and navy; and whether any and what further legislative provisions may be necessary in regard to the mode of adjusting and allowing claims for such services," and to whom the report of a select committee on the same subject, made at the last session, with the papers accompanying it, were also referred, make report on the subject, *in part*, as follows, viz :

The committee have considered the three following classes of cases as embraced within the scope of their inquiries :

1. Claims against the United States, for the satisfaction, either by land or scrip, of military bounty-land warrants issued under the authority of the State of Virginia.

2. Claims for five years' full pay, as the commutation of half pay for life, made to Congress for services alleged to have been performed by officers in the Virginia line of the continental army.

3. Claims of half pay for life for services of officers in the Virginia State line and navy, under the provisions of the act of Congress of July 5, 1832, entitled "An act for liquidating and paying certain claims of the State of Virginia."

The amount paid from the Treasury during the last ten years, in satisfaction of these classes of claims, exceeds the sum of three millions of dollars; and claims to the amount of nearly a million of dollars more are now pending before Congress. Hence the importance of a careful and thorough examination of the evidence on which their validity has been supposed to rest.

The committee, reserving the consideration of the half-pay claims under the act of July 5, 1832, for a future report, will now proceed to examine the other two classes, in the order in which they have been mentioned; and, first,

*Virginia bounty-land warrants.*

By acts of the General Assembly of Virginia passed in October, 1779, and October, 1780, (see 10 Henning's Statutes, 160 and 375,) officers of the Virginia continental and State lines, who should serve to the end of the war, were to be entitled to bounty lands from the State, as follows, viz :

A major general	-	-	15,000	acres.
A brigadier general	-	-	10,000	"
A colonel	-	-	6,666 $\frac{2}{3}$	"
A major	-	-	5,333 $\frac{1}{3}$	"
A captain	-	-	4,000	"
A subaltern	-	-	2,666 $\frac{2}{3}$	"

By the same acts the same quantity of land was to be allowed to officers of the State navy as to officers of the army of equal rank.

These acts of Assembly also promised land to non-commissioned officers, soldiers, and sailors, as follows :

To every non-commissioned officer, who, enlisting for the war, should serve to the end of it, 400 acres ; to every soldier and sailor, for like service under the same enlistment, 200 acres ; to every non-commissioned officer, enlisting for three years, and serving out the same, or to the end of the war, 200 acres ; and to every soldier and sailor, under like circumstances, 100 acres.

Before the passage of these acts, others had been in force, promising to officers and soldiers a less quantity of land ; and a large tract of country in Kentucky had been reserved for the satisfaction of their claims. By a law of May, 1782, provision was made for issuing warrants on the claims of officers and soldiers to the lands appropriated, for the satisfaction of their military bounties ; and it was further enacted, as follows : "That any officer or soldier, who hath not been *cashiered* or *superseded*, and who *hath served the term of three years successively*, shall have an absolute and unconditional title to his respective apportionment of the land appropriated as aforesaid ; and for *every year* which every officer or soldier may have continued, or shall hereafter continue, in service, *beyond the term of six years*, to be computed from the time he last went into service, he shall be entitled to one-sixth part in addition to the quantity of the land apportioned to his rank respectively." By the provisions of this act, warrants were to be issued on the certificate of the Commissioner of War ; but in October of the same year, the office of Commissioner of War was abolished, and the duties transferred to the Executive. The Executive has ever since exercised the power of deciding upon these claims to bounty lands. If the claim is admitted, the Executive gives a certificate to the claimant to that effect, who carries it to the land office of that State, and the register issues to him a warrant, directed "to the principal surveyor of the land set apart for the officers and soldiers of the Commonwealth of Virginia," empowering him to lay off and survey to the person in whose favor the warrant is drawn, the quantity of land therein specified. (See form of warrant, appendix No. 1.)

As a security against the allowance of unfounded claims, it had been provided by act of May, 1779, that the evidence on which warrants should be granted should, in the case of an officer, be the certificate of a general officer, or commanding officer of the troops on the Virginia establishment ; and in the case of a non-commissioned officer or soldier, that it should be the certificate of the commanding officer of the regiment or corps to which he belonged ; such certificates "distinguishing particularly the line in which such officer or soldier had served." The certificates were to be authenticated by proof before a court of record, and the several courts were to return annually, in the month of October, to the register's office, a list of all certificates by them examined and authenticated. The act continued in force until 1815, when the Executive was authorized to allow claims for land bounty, "when satisfactory evidence is adduced that the party is entitled." This is said by Henning (Stat. 11, 562, note) to have been the *practice* long before.

At the time of the cession by Virginia of the northwestern territory to the United States, it seems to have been supposed that there might not have been a sufficient quantity of good land set apart by Virginia in Kentucky to satisfy the bounties promised to her troops ; and to provide against such deficiency, the following clause was inserted in the deed of cession : "That in case the quantity of good land on the southeast side of the Ohio, upon

the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops on continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia." This deed, in pursuance of an act of the Virginia Assembly, passed at the October session 1783, was executed by her delegates in Congress on the 1st of March, 1784. At the same session of her General Assembly, at which such assent to the cession had been given, an act had been passed, by which certain officers of the continental line, and certain officers of the State line, were authorized to appoint superintendents on behalf of the respective lines, for the purpose of regulating the locations and surveys, and of performing any act which might be necessary to enable the holders of warrants to take possession of their lands and perfect their titles. (11 Hen. 309.)

The superintendents immediately entered upon the performance of their duties, dividing the territory which had been set apart in Kentucky for the satisfaction of military warrants between the respective lines of the army, assigning a portion of the territory, by distinct bounds, to the troops of the continental line, and the residue to those of the State line and navy. Locations and surveys continued to be made in Kentucky, under warrants for services in both lines of the army and in the navy, until the 1st of May, 1792, when, by the terms of the compact under which Kentucky became an independent State, (which terms had been proposed by act of Virginia of the 18th December, 1789,) all the lands then remaining unlocated became subject to the exclusive disposition of Kentucky.

But, before the time for locating warrants in Kentucky had expired, and as early, it is believed, as 1787, such of the holders of *continental* warrants as chose to do so began to locate them on the reservation between the Scioto and Little Miami, in Ohio. This was done with the sanction of the superintendents of surveys, and before Congress had been certified of there being any deficiency of good lands on the southeast side of the Ohio to satisfy such warrants. This conduct of the superintendents, connected with a belief that the checks which had been imposed by Virginia on the granting of warrants were too slight to prevent their being improvidently issued, produced a controversy between Congress and the authorities of that State, the history of which it is unnecessary to detail. (See resolutions of Congress, July 17th and September 1st, 1788, and reports to the House of Representatives, July 31, 1789—State Papers, 1 Public Lands, No. 1.) But the superintendents of surveys having reported to the Executive of Virginia that the deficiency of good lands on the southeast side of the Ohio, contemplated by the deed of cession, had been ascertained, and the same having been communicated to Congress, an act was passed on the 10th day of August, 1790, sanctioning the locations and surveys on the reservation in Ohio, and prescribing regulations by which the holders of warrants might obtain titles to their lands.

This act sought to limit the number of warrants to be issued by the authorities of Virginia, and the quantity of land to be covered by them, to a list and estimate to be furnished the Executive of that State by the Secretary of War. The act also provided that, before the seal of the United States

should be affixed to the patent which was to issue for the land, the Secretary of War should endorse thereon that "*the grantee therein named was originally entitled to such bounty lands.*" But this attempt to restrain the free issue of Virginia warrants, and to provide for the re examination of the evidence on which they were granted, as have others of a like character of a subsequent date, proved ineffectual; and warrants have continued to be issued, without limitation, or any practical supervision by the authorities of this Government, from that time to the present. There have, indeed, been numerous attempts by Congress to put an end to these bounty-land claims, and to take possession, for the United States, of the remnant of the reservation unlocated, by prescribing the time within which locations should be completed. The first act of this description, which passed March 23, 1804, provided that all locations should be completed within three years from the passage of the act; and that all the lands in the reservation not then located should be thenceforth released from any claim for bounty lands, and be disposed of in the same manner as other public lands. Since that time no less than nine different acts have been passed, extending the time for locating these warrants, from two to five years each time; the last of which passed in July, 1838, by which the time was extended to the 10th of August, 1840.

It appears from a statement furnished by the Commissioner of the General Land Office, under date of February 3, 1839, that the quantity then taken up by these warrants in Ohio was 3,495,747 acres; and he estimated the quantity of land then remaining to be about 200,000 acres. (See appendix, No. 2.)

It will be noticed that the right to locate warrants on the reservation in Ohio had been confined exclusively to the Virginia troops of the *continental* line. But on the 30th of May, 1830, an act was passed making the United States responsible to the amount of 260,000 acres of land for the bounties which had been promised by Virginia to the officers, soldiers, sailors, and marines, who had been in service during the Revolution in her *State line and navy*. This act provided for the issuing of *scrip* by the Commissioner of the General Land Office, in satisfaction of Virginia warrants for *State* service; which scrip was transferable by assignment, and receivable in payment for the quantity of land expressed upon its face, at any of the land offices of the United States in Ohio, Indiana, or Illinois. The act also made an appropriation of 50,000 acres of land, for which scrip was authorized to issue for Virginia warrants, for services in the continental line; being 310,000 acres of scrip in the whole.

This act was passed without being founded on any written report by a committee of either House, and, so far as can now be ascertained, without much discussion in either branch of the Legislature. The appropriation of land appears to have been intended to take up the warrants then outstanding and unsatisfied, without any expectation of thereby making the Government liable to satisfy warrants that might thereafter be issued. But the acts of 1830 operating as a powerful stimulus to the allowance of new claims, a further appropriation of 300,000 acres was demanded and made on the 13th of July, 1832; and another of 200,000 acres on the 2d of March, 1833; and yet another of 650,000 acres on the 3d of March, 1835: making, in all, 1,460,000 acres, equivalent to \$1,825,000 in money, for which scrip has issued. And the committee find that the General Assembly of Virginia, on the 10th of February, 1838, and also on the 7th of December, 1839,

passed resolutions instructing their Senators, and requesting their Representatives, "to use their best exertions to procure from Congress an additional appropriation of land to satisfy the outstanding military bounty-land warrants, issued under the authority of this Commonwealth, to the officers and soldiers of the Revolution, or their legal representatives." These resolutions have both been presented to the Senate of the United States, and may be found among the published documents of that body. (See Senate Document No. 223 of the 2d session, 25th Congress; and Document No. 30 of the present Congress.) These resolutions do not specify the quantity of warrants for which satisfaction is asked, nor are they accompanied by a statement of the quantity remaining outstanding. But, by a letter from the Commissioner of the General Land Office, of the 30th of January, 1840, it appears that the quantity of unsatisfied claims which had been allowed by Virginia amounted, at that time, to 629,104 acres. (See appendix No. 3.)

It is not the intention of the committee, in this place, to call in question the justness of the principles on which the act of May, 1830, and the subsequent acts appropriating land scrip, were founded; though, in another part of this report, they may institute an examination of those principles. For the present, taking it for granted that the United States were under obligation to fulfil the promises of Virginia to her State troops, and to make good to Virginia any deficiency in the Ohio reservation to satisfy those of the *continental* line, the committee will proceed to inquire whether this Government has provided sufficient guards to secure itself against the payment of unfounded claims; or, in other words, whether, from the manner in which claims for land warrants have been adjudicated by the authorities of Virginia, this Government has sufficient assurance that the fourteen hundred and sixty thousand acres of scrip which have been issued during the last ten years were issued for services really performed, in conformity with the laws of Virginia; and whether there is reasonable probability that the six hundred thousand acres more, which are now asked for, would, if granted, be issued for such services?

These claims to bounty land being founded on services alleged to have been performed more than half a century ago, and there having been no impediment to the allowance and satisfaction of them for a period of eight years immediately after they accrued, it would seem probable that the great mass of the just claims had been allowed and satisfied during that period. This presumption receives additional strength from the important fact, that the Legislature of Virginia, which must have been familiar with the character and extent of the claims, and interested to have them satisfied, voluntarily abandoned further right to locate the warrants of her State line and navy after the first of May, 1792, by surrendering the territory set apart for that purpose to the State of Kentucky.

A tabular statement of the quantity, in acres, of land warrants which have been granted by Virginia during each year, from 1782 to the present period, is appended to this report, (appendix No. 4, A, B, C,) together with a statement of the quantity of claims allowed, for which warrants remain to be issued; from which it appears that the whole quantity of allowances to the State line has been 1,160,458 acres; to the State navy, 977,782 acres; to the ~~continential~~ line, 4,796,207 acres; and for services in which the line is uncertain, 168,519 acres: making the total of all allowances to have been 7,120,966 acres. This number of acres is equivalent to 11,126 square

miles, covering a territory greater in extent, by about one quarter, than the largest of either of the following eight States of this Union, to wit: New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, and Maryland.

It will also be seen, by the details of such tabular statement, that the early allowances were principally made within four or five years after the close of the war; and that the allowances for the four years next previous to the 1st of May, 1792, were comparatively of trifling amount; indicating, as the committee conceive, that all, or nearly all, the claims which, by the principles and rules of evidence then adopted could be allowed, had been presented and adjusted. This indication is particularly strong in regard to the allowances to the State line and navy, from the fact, that notice of the expiration, on the 1st of May, 1792, of the time for obtaining satisfaction of their warrants had been given in December, 1789, by the passage of the act by which the whole of the military land district in Kentucky was to be abandoned to that State by Virginia on that day. Notwithstanding such notice, the quantity of warrants allowed to the State line and navy during the years 1790, 1791, and 1792, up to May 1 of the latter year, was only 45,476 acres; while such allowances, during the seven months in the year 1830, succeeding the passage of the scrip act, were nearly double that quantity.

It will be seen, also, by such tabular statement, that the modern allowances of land warrants have been extremely large. In the case of the State line, the allowances for the ten years since May, 1830, have exceeded one-third of all the allowances made during the 48 preceding years, being 297,395 acres; while, in the State navy, the allowances previous to May, 1830, amounted to 334,163 acres, and since that date to 621,985 acres—the allowances since 1830 being almost double those of the whole previous period. Even in the continental line, in which warrants have been granted and satisfied without interruption, from the year 1784 to the present period, and in which it would seem that all claims ought to have been presented many years ago, the quantity of acres granted since 1792 has been 1,981,349; while the allowances since May, 1830, have been 698,439 acres; making all the allowances since May, 1830, amount to 1,617,820 acres. This great excess of modern allowances over what they might be expected to have been, while it affords no direct evidence of the character of the claims, is well calculated to excite suspicion and inquiry; and if it should be found connected with other corroborating circumstances, may have great weight in producing a conviction that the modern warrants, or a great portion of them, have been improvidently granted. It is believed that this suspicion against the validity of the modern Virginia allowances, instead of being weakened by a comparison with the modern allowances made by the United States to the troops of the continental army, will, by such comparison, be strengthened and confirmed. For such comparison, and its results, see appendix No. 15.

In reference to the character of these allowances by Virginia, a very natural inquiry suggests itself: Does the number of warrants which have been issued, and the quantity of land covered by them, correspond with the number and rank of the troops which were in the service of Virginia during the Revolution? or, is the number of warrants and quantity of land so much greater than could have been reasonably expected, as to create a well-

founded belief that the warrants, and especially those granted at a late period, have been habitually issued on loose and insufficient evidence?

This question has been brought to the notice of the authorities of Virginia, and will be considered by the committee in connexion with the view which they have taken of it.

On the 1st of December, 1834, Governor Tazewell, in his annual message to the General Assembly of Virginia, thus spoke of these claims: "More than fifty years have now elapsed since the origin of all such claims. During the whole of this long period, the several tribunals charged with the investigation of them have been constantly open to every claimant. Not a year has elapsed but some have been acted upon; and if the number disposed of in past time bears any proportion to that which I have been called upon to decide during the short period I have been in office, the aggregate would very far exceed the total number of just claims of this sort, which, by any possibility, could ever have existed against the Commonwealth. Moreover, the proceeding in such cases, from its very nature, invites to the commission of numerous frauds, which it will be impossible to prevent: because their detection must ever be a work of the greatest difficulty; and because the detection, when made, draws down no punishment upon the perpetrators, as the Legislature have not thought proper to declare such frauds to be crimes." The Governor then recommends the repeal of all the acts on this subject; and, in case the General Assembly should not think proper to concur with him in their repeal, then a thorough revision of them. (See journals of House of Delegates, page 11.)

This part of the Governor's message was referred to a select committee, who made report on the same on the 18th of December, 1834. (See Doc. No. 8 of that session, appended to the Journal.) This report, which is adverse to the views of Governor Tazewell, and favorable to the continued allowance of the claims, was reprinted by order of the House of Representatives of the United States, on the 19th of February, 1835, as an inducement to the appropriation of 650,000 acres of scrip made by act of March 3, 1835; it was also reported to the House by the Committee on the Public Lands, on the 25th of March, 1836, accompanied by a bill for making a further appropriation of land scrip; and during the present session of Congress, it has been incorporated into, and made to constitute the principal part of, a report from the same Committee on the Public Lands, accompanied by bill No. 230, which appropriates five hundred thousand acres of land scrip towards the satisfaction of outstanding Virginia warrants. The importance which has been thus attached to this report will require that it should be fully examined by this committee. That part of the report which pertains to the point of inquiry now under consideration is as follows, viz:

"In relation to the first point, whether the allowance made by Virginia exceeds the amount of good claims which could ever have existed against her, your committee beg leave to say, that, after an accurate and careful examination of the subject, they have no hesitation in saying that the amount of claims allowed by the Executive falls far short of the number of good claims, which, from the nature of the case, must have existed against the State; that the amount of good claims has not been overdrawn; and, furthermore, that there are now outstanding good and valid claims against this Commonwealth. They submit, herewith, the substance of a certificate of General Robert Porterfield, concurred in by Chief Justice Marshall, (both of whom were officers in the Revolution,) that the persons entitled to land

bounty from Virginia must have amounted to at least 500 for each continental regiment. There were in service, in the Revolution, twenty one regiments, viz: sixteen on continental establishment, three regiments of the State line proper, and the two western regiments; and the State navy, composed of twenty or twenty-five vessels. Estimating, therefore, the number of persons in each continental regiment, entitled to land bounty, at 500, and putting down the State navy as one regiment; after making up the difference between the State line and continental regiments, (which is far below the estimate,) the number of persons entitled to land bounty would be 11,000. By the certificate of the register of the land office, hereto annexed, it appears that the whole number of warrants issued to 15th October last were for the service of about 6,136 persons: so that there would be 4,864 persons, or their representatives, still entitled to land bounty from Virginia." (For this report at length, see Ex. Doc., No. 189, House of Reps., 1st session 21th Congress.)

This committee are not satisfied with the view here taken of the question, and for two reasons: the first of which is, that it does not appear to be founded on well authenticated facts; and, secondly, that, if its facts were admitted, the proposition which the report seeks to establish, viz: "that the amount of land bounty allowed by the State of Virginia does not exceed the quantity of good claims which might have existed against the Commonwealth," still remains unproved.

This committee have so high a regard for every thing connected with the name of Judge Marshall, that they would be loath to differ from him, even in a case like the present, where he had merely undertaken to make a conjecture. But they think the above report has mistaken the meaning of Judge Marshall, and that his certificate by no means warrants the result which the report draws from it. General Porterfield had certified that it was *probable* there were 1,000 men belonging to each Virginia regiment who were entitled to bounty lands for three years' service, and *with confidence* that there were at least five hundred. This certificate was presented to Judge Marshall, who wrote thus: "I should not think there were a thousand to each regiment entitled to bounty, but the number cannot, I think, be less than five hundred. I allude to the regiments *actually raised* in the Virginia line on continental establishment." Now, although there were at one time sixteen regiments authorized to be raised by Virginia, yet it is believed that no more men than were sufficient to make out the complement of six or seven full regiments were ever raised by enlistment, including all who were enlisted for one year, for eighteen months, and for two years. Giving, therefore, a fair interpretation to the language of Judge Marshall, we shall have from 3,000 to 3,500 as the number of persons serving in the continental line who were entitled to bounty land, instead of the 8,000 estimated in the report.

That the number of persons entitled to this bounty in the continental line must have been greatly below 8,000, will seem probable, from a consideration of the number of troops furnished by Virginia after the period had arrived when the right to bounties could have accrued, and from the character and terms of enlistment under which they served. The earliest enlistments in the two first regiments raised by Virginia were in September, 1775; consequently, no rights to bounties could have been acquired until September, 1778, and those in only two out of the fifteen regiments. It appears from a report of General Knox, Secretary of War, of May 11, 1790, made from

actual returns of the army, in his department, that the number of troops on continental establishment, furnished by Virginia in the year 1778, and the succeeding years of the war, was as follows, viz:

In the year	1778	-	-	-	-	-	-	5,230
" "	1779	-	-	-	-	-	-	3,973
" "	1780	-	-	-	-	-	-	2,486
" "	1781	-	-	-	-	-	-	1,225
" "	1782	-	-	-	-	-	-	1,204
" "	1783	-	-	-	-	-	-	697

The number of Virginia troops in service previous to 1778 is omitted, as unimportant, because none who were out of service before that time could be entitled to the bounty. It will be remembered, that a right to bounty could only be acquired by *successive* or uninterrupted service for three years, and by service to the end of the war. A glance at these numbers will show that but a fraction of the number of 8,000 could have been entitled for a service to the end of the war. The report of General Knox does not specify the terms for which the troops in service at any period were enlisted; but, from the general historical fact, applicable to the Virginia line, as well as to the lines of other States, that the great and almost fatal error in the construction of our revolutionary army was the short enlistments of the men, by which it almost every year dwindled to but a handful, it does not seem probable that the class who became entitled to bounty, by continued service under enlistments for three years, or successive enlistments for shorter periods, could have been very large. The enlistments in the two first regiments were for one year; in the seven next regiments, for two years; and, although in the six additional regiments which began to be recruited in January, 1777, enlistments were to be for three years and the war, still enlistments for shorter periods also continued until after the passage of the resolutions of October 3 and 21, 1780. Besides this, a considerable portion of the line, during each campaign, was composed of men draughted from the militia, or volunteers for temporary service; all which are included in the foregoing returns. When these facts are taken into consideration, together with the facts appearing from the foregoing returns, that, in 1781, as soon as short enlistments and draughts had been wholly discarded, the number of troops in service became reduced below 1,300 in number, it is submitted, as more probable, that the number who could have been entitled to the Virginia bounties was below 3,500, than above that number.

The committee will now proceed to the second and most important objection to the estimate and arguments which they have quoted from the foregoing report to the Virginia House of Delegates; which is, that, if it were admitted to be true that there were 11,000 honest claims for bounty land, and but 6,000 of them had been allowed, it would not by any means follow that "the amount due on the good claims" had not been greatly exceeded. This will be readily seen. The average quantity of bounty land due to privates may be stated at 150 acres each, while the average bounty of officers is about 3,500 acres each. Now, if these 11,000 claims had all been allowed to privates, the amount of land required to satisfy them would be 1,650,000 acres; whereas, if the same claims had been allowed to officers, the quantity of land required to satisfy them would be 38,500,000 acres. Even if but the 6,000 claims before mentioned had been allowed to officers, the quan-

ity of land required would be 21,000,000 acres—more than twelve times the quantity required to satisfy 11,000 claims to privates. Hence the fallacy, not to say absurdity, of estimating the number of claims in the lump, without undertaking to separate the officers from the privates. It seems surprising that the committee who made the foregoing report should have overlooked this striking defect in their argument, and should have wholly forbore to inquire into the number of claims which had been allowed to officers, especially as that committee must have seen that, while the temptation to obtain the allowance of unfounded claims to officers was very great, the successful prosecution of a single claim being often a fortune, that of a private might little more than pay the expense of obtaining it. From the smallness of the allowance to privates, it may very well have been that a portion of their bounties may not have been claimed; whereas no such presumption arises in the case of officers.

This committee, so far as the materials within their reach will enable them, will endeavor to supply this important omission in the foregoing report.

They will, in the first place, endeavor to ascertain the probable number of officers, who, for services for three years, or during the war, became entitled to bounty land from Virginia.

The Virginia convention which met in July, 1775, ordered two regiments of regulars to be raised. In December, 1775, the raising of seven other regiments was ordered, "six of which," says Judge Marshall, in his Life of Washington, "in the first place, and afterwards the remaining three, were taken into continental service." At the October session in 1776, an act passed for raising six additional regiments, making fifteen in the whole. In September, 1778, these fifteen regiments were reduced to eleven, and the supernumerary officers discharged.

If we suppose the officers to have been immediately appointed under the laws directing the regiments to be raised, (which is only probable in a portion of the number,) these terms of three years' service would expire as follows, to wit: the terms of the two first regiments in August, 1778; of the seven regiments, in January, 1779; and of the six last regiments, in November, 1779. At the reduction, therefore, in September, 1778, only those officers of the two first regiments raised in 1775 could, by any possibility, be entitled to bounty land. Among the Washington Papers in the State Department (*Arrangements*, vol. 7) is a list of the officers of the two first regiments, with the dates of their appointments; from which it appears that only four officers, in both those regiments, were appointed in time to have performed three years' service at the period of the arrangement in September, 1778; and of those four, the names of three are found on the list of officers in the Bounty Land Office as having served to the end of the war. One officer only could, therefore, have been discharged at that arrangement entitled to the bounty; all others who were discharged, having performed less than three years' service, could not be entitled. This statement does not include the officers of two companies of riflemen, who in the summer of 1775 joined the army before Boston, under General Washington, and were taken into continental service by resolution of Congress. These officers were afterwards incorporated into one of the beforenamed regiments; and it is not impossible that some two or three of them might have been discharged at the arrangement in September, 1778, entitled to the Virginia bounty. With these exceptions, it is believed the officers entitled to bounty

land from Virginia must be sought only among those retained in service in September, 1778, and those who afterwards joined the army.

It may be here remarked, that the officers who were discharged at this arrangement as supernumeraries were not entitled, as such, to land from Virginia; because the Virginia resolutions promising the bounty were passed subsequent to the arrangement, and they made no provision for supernumeraries, but only for those who were in actual service for three years, or during the war.

We have historical information that there was a great deficiency of officers as well as men in the fifteen Virginia regiments in 1778. The following extracts from the letters of General Washington to the President of Congress will throw some light on the condition of the army, and of the Virginia line in particular, at that period:

"VALLEY FORGE, March 24, 1778.

"As it is not improper for Congress to have some idea of the present temper of the army, it may not be amiss to remark, in this place, that since the month of August last, between two and three hundred officers have resigned their commissions, and many others were with difficulty dissuaded from it. In the Virginia line only, not less than six colonels, as good as any in the service, have left it lately; and more, I am told, are in the humor to do so."

"VALLEY FORGE, April 10, 1778.

"I can with truth aver that scarcely a day passes without the offer of two or three commissions; and my advices from the eastward and southward are, that numbers who had gone home on furlough mean not to return, but are establishing themselves in more lucrative employments. The disadvantages resulting from the frequent resignations in the Virginia line, the change of commanding officers to the regiments, and other causes equally distressing, have injured that corps beyond conception, and have been the means of reducing very respectable regiments, in some instances, to a mere handful of men."

"VALLEY FORGE, April 21, 1778.

"The spirit of resigning commissions has long been at an alarming height, and increases daily. The Virginia line has sustained a violent shock in this instance—not less than ninety have already resigned to me."

In point of fact, the whole number of officers discharged at the reduction of the Virginia line in September, 1778, as appears by the arrangement itself, which will be more particularly noticed hereafter, was forty-five; not more than three or four of whom, as before shown, could have been three years in the service.

The committee have been thus particular, because they deem it of importance to ascertain what number of persons, as officers of the Virginia continental line, were in a situation in which they could become entitled to bounty lands from the State.

It is ascertained, then, that no officers (with the unimportant exceptions beforementioned) could be entitled to Virginia bounty lands for three years' service, but such as were retained in service after the reduction of the line in September, 1778.

An attempt will now be made to ascertain the number of officers who could, for three years' service, and for the service of during the war, become entitled to bounty. If we suppose the eleven regiments of infantry, of which the line was composed after September, 1778, to have had their full complement of officers allowed by the resolve of May 27, 1778, twenty nine to each regiment, the whole number in the line would be 319. If to these be added the number of officers found by the rolls to have been in service in September, 1778, in the ten companies of Colonel Harrison's artillery regiment, which were officered from Virginia, (41 in number,) we shall have 360 as the whole number in the infantry and artillery. If, in order to be sure to include all the Virginia officers of other corps, such as Lee's legion, Armand's corps, &c., we add to this number the complement of two full regiments of cavalry, of thirty officers each, we shall have the number of 420 as the highest number of officers that could have been in service at any one time after September, 1778. It is believed the actual number was never so large.

Now, of the 360 infantry and artillery officers, who, by the arrangement of September, 1778, and by returns in the Pension Office, are found to have been in service in September, 1778, 184, (being rather more than one-half,) are also found to have served to the end of the war. If, preserving this proportion nearly, we allow one-half of the whole number of officers retained in service in September, 1778, to have served to the end of the war, we shall have 210 officers who became entitled to bounties for services throughout the whole war, and in whose places no other officers could be entitled; and 210 other officers, in whose places changes were made, and in which more than one full set of officers might have served. When it is considered that the three years' terms of a large proportion of the officers could not expire until more than a year after September, 1778; that, at each subsequent reduction of the army, the vacancies that might then exist would not be filled by any one; that, after the dismission, as supernumeraries, in May, 1782, of 12 lieutenants from each regiment, few, if any, new officers were appointed; and when it is also considered that there was no inducement to an officer to make his term of service extend to three years, the bounty for that service not having been promised till the May session of 1782—it does not seem probable that more than from one-third to one-half of the places of these 210 officers would have been filled by two different officers entitled to the bounty. Supposing one-half of the places to have been thus filled, the number of officers of this class entitled to bounty would be 315. But still further, in order to be sure of having the estimate sufficiently large to cover all casualties and omissions, and all errors of calculation, if any, let the number of two full sets of these 210 officers be supposed entitled. This will be an addition of 105 to the foregoing liberal estimate, making 420 officers to supply those 210 places; which, added to the number 210 who served through the whole war, will make 630 officers, by whom it may be supposed the land bounty might, by possibility, have been justly claimed.

By the report of the register of the Virginia land office, of the 10th of February, 1840, before referred to, (appendix No. 4, C,) it appears that the number of persons for whose services, as officers, warrants have issued since 1782, is as follows, viz:

Officers of the State line	-	-	-	-	234
Officers of the State navy	-	-	-	-	268
					502
Officers of the continental line	-	-	-	-	1,030

Making in the whole - - - - - 1,532  
 officers ; and that the number of other persons for whose services warrants have issued is 4,959 ; making 6,491 allowances in the whole, and being one officer to every three men and a fraction of another.

If, from the foregoing number of 1,030 officers in the continental line who have received bounty from Virginia, be deducted the number of 630, which, according to previous calculation, is found to be the highest number of officers which could have been entitled, we shall find an excess of 400—a number which lacks but 20 of being the full complement of officers of all the Virginia continental troops which were in service after the arrangement in September, 1778; and is probably a greater number than actually belonged to the line at any period after that date.

But if the quantity of land which has been granted for these bounties be taken as the data of the calculation, the excess of the grants over what they ought to have been appears no less decided and striking than is the excess in the number of officers.

To avoid being tedious, the committee have submitted the details of their calculation in the appendix, (No. 6;) from which it appears, that if from the quantity of land claims which have been allowed by Virginia for services in the continental line there be deducted the quantity of lands which would satisfy the bounties due 2,724 non-commissioned officers and privates, the quantity of land remaining for officers' bounties would be sufficient to satisfy the full complement of 47 regiments of infantry. It further appears, that if the number of persons not officers, stated by the register of the Virginia land office to have received land warrants, to wit, 4,959, were supposed to be actually entitled to them, and three-fourths of them were for services in the continental line, and a calculation were made on that basis, the result would be, that, deducting the quantity of lands to which the non-commissioned officers and privates would be entitled, from the quantity of allowances before mentioned, there would still remain sufficient lands to satisfy the warrants of over 45 regiments of officers—equal to more than three full sets of officers which were in service at any period of the war when any of the officers could be entitled to the bounty.

But there is one further test by which the question whether a greater amount of claims has been allowed by Virginia than could have existed against her, may be tried; the result of which seems very conclusive.

Among the documents of the Virginia House of Delegates, of the session commencing in December, 1833, (No. 30,) the committee find a list of the names of the officers of the continental and State lines, and navy, who have received bounty lands from the State for revolutionary services, with the amount of land granted to each, the date of the grant, and the description of the service for which it was obtained, down to September, 1833. From the register of the Virginia land office, the committee have lately been furnished with a similar list from September, 1833, to the present period.

It will be recollect that, by the act of the Virginia Assembly, passed in May, 1782, recited in the beginning of this report, the land bounty to officers

which had before been limited to those who should serve to the end of the war, was not only granted for three years' service, but that provision was made for the additional grant of the quantity of one-sixth of the original bounty to all officers who should serve for one year more than six. Now, a recurrence to what has been hereinbefore stated in reference to the commencement of the terms of service of the several regiments, and of the non-appointment of new officers towards the close of the war, will make it very clear that any officer in the Virginia line, who shall be found to have become entitled to this additional bounty, by a service of seven years, or of any time over six years, must have taken up the whole term of the office which he filled in the army, without leaving any space for any other officer to become entitled to the three years, or to the end of the war, bounty. The committee find by the Virginia lists of officers' bounties before mentioned, that the additional bounty for more than six years' service has been granted to 370 officers in the continental line, being fifty-one more than sufficient to supply the 11 regiments of infantry, with their full complement of officers. If this number 370 be deducted from 420, the highest number of officers which could have been in service at any one time after officers could be entitled to bounty, it will leave 50 as the number of officers, out of the changes in whose places is to be made up the right to bounty of the 660 remaining officers who have received it: this, it is very clear, is altogether impossible. There is but one answer to this argument, which is this: that the bounties for more than six years' service have been granted where the service had not been performed, and that, therefore, it is no true test of the number of officers who might have been entitled to bounties; which answer is itself a full admission that the warrants have been improvidently issued, and that no confidence can be placed in the justness of the claims on which they have been granted.

The committee have not the data before them for making a similar examination to the foregoing into the number and character of the bounties granted to the troops of the State line. Nor do they deem such examination necessary. It is understood that the evidence required, and the course of proceeding adopted, in the allowance of claims for warrants, is alike in both lines; and the character of the allowances, whether good or bad, is doubtless the same.

But the committee will call the attention of the House to a few facts in reference to the State navy bounties.

An act of Virginia, of November session, 1781, made provision for paying the officers of the army and navy such sums as might be due them of their current pay, and also for making good the depreciation of their pay for five years, commencing on the 1st of January, 1777, and ending the 1st of January, 1782. That is to say, they were to receive such sums as might remain unpaid of their regular pay; and as the payments which had been previously made them had been in paper money, which was greatly below par, they were to have the loss they had sustained on it made up to them, according to a scale of depreciation inserted in the act. The accounts of the officers were to be adjusted by the auditors of public accounts; and as the depreciation pay could be obtained through no other channel than this adjustment of the auditors, there is no reason to doubt that all officers who had served at any time during that period applied for and received it. The payments were made in State certificates; a register of which, showing the name of the officer, the date of the settlement, the sum paid, and the name

of the person to whom the certificate was delivered, was kept, and has been preserved: a copy of which may be found in the Pension Office. (See appendix No. 7.)

This list contains the names of 74 officers of the navy. That it includes the names of all the officers who could have been entitled to bounty, cannot well be doubted. The first appointments in the navy were made after the 1st of January, 1776; and, at the end of the year 1781, "the officers of the navy, of every denomination," were ordered to be discharged from the service, "except such as were necessary for the command of the lookout boat Liberty." (9 Hen. 83; 11 Hen. 450.) Consequently no officer, except those left in command of the lookout boat, (3 or 4 at most,) could have been entitled to bounty for three years' service, without also being entitled to at least two years' depreciation pay; for, if he entered the service in January, 1776, he must, in order to complete his term of three years, have served through the years 1777 and 1778. Now, as this depreciation pay for the years 1777 and 1778 could not have amounted to less than 70 per cent. of the original pay, it is incredible that a single officer entitled to it should have omitted to claim and receive it.

Although this list of officers may be relied on as containing all the officers of the navy who could be entitled to bounty lands, yet it is not confined to those officers, but includes all others who, for shorter periods than three years' service, settled their accounts with the auditors. If the fluctuations among the officers in the navy were as great as among those of the army, (and the committee see no reason to doubt that they were so,) it is probable that about one-half of the 74 officers contained on the register were officers who performed less than three years' service, and that the actual number of officers entitled to the State bounty could not have exceeded 40, or 50 at the most.

Now, from an examination of the lists of bounties before mentioned, it appears that land warrants have been granted to 268 persons as officers in the State navy, of which number 92 were granted previous to the passage of the act for issuing scrip in May, 1830, and 176 since that date. This number of 268 officers is so extravagantly beyond the number which can be supposed to have been entitled, as to force upon the mind the conviction that the great mass of the warrants have improvidently and improperly issued. And it may be observed, in reference to the grants of bounties, not only for services in the navy, but also those in the State line, that, as there was a period of ten years, from 1782 to 1792, in which these grants were freely made, and a period of eight years, from 1784 to 1792, when these warrants might have been as freely located; and as the Virginia authorities of that day are known to have been extremely liberal in their allowance of bounties, there can be little reason to suppose that any considerable number of just claims remained unrepresented and unadjusted at that period. On the contrary, the committee think there is strong reason to believe that the great mass of warrants which have been granted since 1792, and especially those which have been granted since the act of May, 1830, and for the satisfaction of which so many hundred thousand acres of land have been repeatedly appropriated, have issued for services which never were performed in conformity with the laws of Virginia promising the bounties, and to which the persons receiving them had no just claim.

From the foregoing facts and circumstances, the committee have come to the conclusion, in conformity with that intimated by Governor Tazewell

in his message before quoted, and contrary to that of the committee who made report on that message, that a far "greater amount of land bounty has been allowed by the State of Virginia than the quantity of good claims which ever could have existed against her."

In order to ascertain the particular character of the evidence on which it has been usual to grant land warrants, the committee have availed themselves of the testimony in sundry cases, which, having been first used before the Executive of Virginia, in obtaining land allowances, has been since presented to Congress in support of claims to commutation. This testimony will be examined hereafter in connexion with commutation claims. From this evidence, the committee think the conviction which is produced by the excessive number and quantity of these bounty-land warrants, that they have been improvidently granted, will be strengthened and confirmed.

It is not the intention of this committee to charge upon the authorities of Virginia any positive design to defraud this Government, by the voluntary allowance of unsound claims. Nevertheless, the committee cannot resist the conviction, that the checks which the Virginia authorities have provided to guard the Treasury of the United States against such claims, have been of so slight and inefficient a character as to interpose no serious obstacle to their allowance.

#### *Commutation.*

By resolutions of the old Congress of the 3d and 21st of October, 1780, a new arrangement of the continental army was directed; and the latter resolution provided that the officers of the line, who should *continue in the service to the end of the war*, or who should be *reduced* (left out of command) by such new arrangement, should be allowed *half pay for life*. On the 17th of January, 1781, the benefit of this resolution was extended to certain officers in the hospital department and medical staff; and on the 8th of May, 1781, to chaplains; and subsequently to all officers of the line who might become supernumerary, under the resolve of the 23d of April, 1782, and also under the arrangement ordered by resolutions of the 7th of August and 19th of November, 1782. The provision of half pay for life being viewed in an unfavorable light in many of the States, and apprehensions existing in the army that it might not be paid, the officers petitioned Congress that it might be commuted for its equivalent in a compensation for a limited term of years, or for a sum in gross; and on the 22d of March, 1783, Congress came to the resolution that the officers of the army, to whom half pay for life had been promised, should be entitled to receive five years' full pay in lieu of it; which full pay for five years is familiarly denominated "commutation," or "commutation pay."

Commutation, then, was promised to two classes of officers: first, *to those who should serve to the end of the war*; and, secondly, *to those who had become supernumerary under such reductions of the army as had happened after the passage of the resolution of October 21, 1780.*

It will be perceived from this statement, that there is nothing in the nature of these claims that should confine them to persons from any particular State of the Union; and, in fact, claims have been presented and allowed from various sections of the country, though a great majority of all the cases have been for services of officers in the Virginia line. In obedience to the resolution under which this report is made, the committee

have confined their inquiries to claims of Virginia, though they doubt not the claims for commutation are of a like character, from whatever quarter they may come.

At the close of the revolutionary war, the same provision was made for paying these claims that was provided for the monthly pay of the officers, and they were usually settled in the same account. They were included in final-settlement certificates, drawing interest from the time of disbanding the army; and these certificates were afterwards taken up, by being funded under the act of August, 1790. From the year 1794, when these claims became barred from adjustment at the Treasury, by the act of limitation of the 27th of March, 1792, up to the year 1828, three claims had been allowed by special acts of Congress—one to Colonel Dubois, in June, 1794; one to Philip Turner, a surgeon, in 1808; and another to the widow of Alexander Hamilton, in 1816. In 1828, commutation pay was allowed by special acts in three cases; and there were allowances in five cases in 1830; ten in 1832; seven in 1833; fourteen in 1834; four in 1836; and sixteen in 1838—in the whole, sixty-two claims, on which has been paid at the Treasury \$272,551 22. (See appendix, No. 8.) There were pending at the last session, in the House, thirty-six bills granting commutation, favorably reported on by the Committee on Revolutionary Claims; and in the Senate ten other bills, also favorably reported by the corresponding committee of that body; besides which, there were in both branches fifty-eight claims pending, on which the committees had not then acted.

The Committee on Revolutionary Claims of the House have, heretofore, not only recommended the allowance of the principal, but have urged the addition of interest, computed according to the principles of the funding act, by which the original claim is more than trebled.

The revival of these claims after they had slept for nearly half a century—not often by the officer himself, but usually by his heirs, or perhaps as frequently by some adventurer in their name—and their constant and rapid increase from year to year, as a knowledge of their successful prosecution becomes more widely extended, seem to call for a critical and thorough examination of them.

The first inquiry that naturally arises on the presentation of a claim for commutation, is, why has it been so long delayed? If the claim is now due, it was due fifty years ago: why was it not then presented and allowed?

In recurring to the history of the early provisions for the settlement of this class of claims, the committee look in vain for any extraordinary obstacle in the way of their adjustment and liquidation at that period.

On the 4th of July, 1783, soon after receiving information of the signing of the provisional articles of peace, and four months before the army was disbanded, the Paymaster General was authorized and directed "to adjust and finally settle all accounts whatsoever between the United States and the officers and soldiers of the American army, so as to include all and every demand which they, or either of them, might have by virtue of the several resolutions and acts of Congress relating thereto;" and he was to give certificates of the sums found due on such settlements, which certificates were to bear an interest of six per cent. In February, 1782, Congress had provided for the appointment of a commissioner of accounts for each State in the Union; which commissioners were to go into their respective States, and "to give public and early notices of the times and places of their sitting, and the districts within which they settled accounts, that as well"

(says the resolve) "the public officers as the private individuals may have an opportunity to attend." These commissioners acted as deputies to the Paymaster General, who was also styled commissioner of army accounts, and by whom they were furnished with blank certificates, to be filled up and delivered to the officers and soldiers in liquidation of their respective claims. But, as it might be impracticable or inconvenient for all persons having claims to attend in person on the commissioners, and especially for the non-commissioned officers and privates, whose claims, compared with those of the officers, were small in amount, it was provided by a resolve of November, 3, 1783, that the certificates of sums due to the officers and soldiers of the different lines of the army should be delivered to regimental agents, to be by them delivered to the individuals to whom they belonged, or deposited, for their benefit, in such manner as the Governors of the respective States might direct. Mr. Z. Turner appears to have been the first commissioner of accounts for Virginia, on whose resignation Andrew Dunscomb was appointed, by whom all the settlements with the officers and soldiers of the army within that State appear to have been made. These commissioners were furnished with the muster-rolls and all other papers in the possession of the Government, or abstracts of them, relating to the lines of their respective States; and the officers who might have claims not appearing on these papers, if any, were stimulated to present them by the passage of a resolve, declaring that all claims not presented by the first day of August, 1786, should be for ever barred; and the commissioner of army accounts was directed "*to give public notice of this resolve in all the States for the term of six months.*" On the 22d of July, 1787, a further time of one year was given for presenting these claims; and on the 27th of March, 1792, a further time of two years was granted.

In January, 1834, the Committee on Revolutionary Claims of this House reported a bill providing for the adjustment and allowance of claims for commutation at the War Department. In their report, which accompanied the bill, there is found the following statement in reference to the early settlement of these claims:

"Those officers who remained in actual command until the army was formally disbanded had no difficulty in establishing their claims, and, with probably few exceptions, received commutation certificates. But there were many who had retired at different periods, entitled to half pay for life, and therefore to the five years' commutation; and many others, who from various causes had no actual command at the close of the war, but who, as they did not resign, nor abandon the service, nor forfeit their commissions, but continued ready and willing to serve, and were inactive only because they had nothing to do, nobody to command, and no orders to obey, ought properly to be considered as continuing in service, and entitled to all the benefits of such continuance. The officers of both these classes were dispersed at the close of the war, many of them at a distance from the accounting officers, many of them (and especially of those who had retired) *ignorant* of their right to commutation which had been accepted for them by the votes of their brother officers. Some were discouraged by the narrow construction which the financial condition of the country had induced Congress to give to their own resolutions; others by the small comparative value of the certificates, which, when obtained, promised little remuneration for any trouble or expense which they might cost."

This committee have looked in vain for satisfactory proof of the statements contained in this extract from the report of 1834. They are persuaded their predecessors must have adopted them without sufficient examination. They belong not to the history of the period of which they purport to speak, but are of modern and recent origin. They are only supported by vague and uncertain parol testimony, given after the lapse of fifty years, and by the interested declarations of claimants and their attorneys.

The officers, as well those who had been reduced as those who continued in service to the end of the war, had, as has already been shown, abundant notice that the Government was ready to adjust and settle their claims, and full opportunity to present them within their respective States. To say that any of the officers were ignorant of their rights, is a gratuitous assertion, of the reality of which the committee cannot but be incredulous. The provision of half pay for life had been the subject of discussion and of political declamation throughout the country, from the time of the passage of the resolutions granting it in 1780, and had become extremely unpopular in some of the States. The apprehension that, from its odiousness, it might not be paid, had produced great excitement in the army, which, fanned as it was by the famous Newburg address, threatened the very existence of the Government. It is to be remembered, that the meeting of the officers of the army, called by General Washington, in consequence of that address, and to counteract its effects, was holden on the 15th of March 1783; and that on the representation to Congress of the claims of the army, made by General Washington, in obedience to a resolution of the officers adopted at that meeting, the resolve of the 22d of March, 1783, which gave commutation, was adopted. This whole transaction was well known and understood throughout the country. It formed an era, and, from its peaceful and happy termination, a proud one in the history of the Revolution. In May thereafter, meetings of the arranged and retiring officers of the Virginia line, of which public and probably private notice by letters must have been given, were held at Fredericksburg, in obedience to the requirements of the commutation resolutions, at which the commutation was unanimously accepted, and notice of its acceptance transmitted to Congress, (for these proceedings of the Virginia officers, see appendix No. 9;) and like meetings were held in the other States.

Under all these circumstances, it seems utterly incredible that a single individual of so intelligent a body of men as the officers of the army are known to have been, could be ignorant of the provision which had been made for his benefit. But, in order to make this plea of ignorance of any avail, it must be extended to the provision of half pay also. For, whether the claim was for half pay for life, or for commutation, it was equally the interest of the officer to present it; and to suppose the claim of an officer remained unpresented from ignorance of its existence, is to suppose that the officer not only never heard of the commutation resolutions, but was also ignorant that the very resolution under which he had retired from the army had provided for him the half pay for life; which supposition is so palpably incredible as to involve an absolute absurdity. Nor does the excuse offered for the non-presentation of these claims, for the reason that they were deemed of little value, seem to have any better foundation. After the organization of the Government under the present constitution, when the claims for commutation were of par value, and known to be so, an opportunity, for the term of two years, from the 27th of March, 1792, to the

27th of March, 1794, was afforded for their presentation and allowance at the Treasury. We have a list of all the claims adjusted during this period, which, for personal services in the army and navy, were over 1,400 in number. Among these, there are found but 14 allowances for commutation, (a fraction more than the average of one from each State;) which seems to be conclusive evidence that very few claims could have been omitted under the old Government.

The committee will close their remarks on this subject by a quotation from the report of the Committee of Claims of the House of Representatives of December 24, 1797, which committee had been instructed to inquire into the expediency of excepting certain classes of claims from the operation of the statutes of limitation. The report, the whole of which is worthy of a careful consideration, may be found in the State Papers, volume —, on Claims, page 202. Treating of the adjustment of claims under the old Confederation, the report says :

" It must be acknowledged by all, that, during those periods, every opportunity which could rationally have been expected was made for the accommodation of individuals having claims against the public, to enable them to obtain proper settlements of their demands. The journals of Congress under the Confederation will abundantly justify this remark. Commissioners were appointed, with special or general powers, to settle the claims of individuals in all the departments; and, in every instance, the powers given were plenary and explicit. Sufficient time was given for every one to obtain information and pursue his remedy; and ample opportunity was given for all to substantiate their claims, or at least to present abstracts of them, which would have prevented their being foreclosed by the acts designed eventually to operate upon them. The cases cannot be numerous in which the want of opportunity to bring forward claims can be justly pleaded as an excuse for the omission."

This committee will not say there may not have been well-founded commutation claims, which were not presented, either under the Confederation, or under the act of March, 1792; though, from what has already been shown, as well as from what will hereafter appear, they are of opinion such claims must have been extremely rare. But the committee do say, that every rational presumption is against the validity of any claim which was not then presented; and that the holder of such a claim, now first bringing it to the notice of the Government, after it had slept unheeded for more than half a century, should be required to establish it by proof of the highest and clearest nature.

The necessity of establishing such a rule for the examination of these claims will appear to be still stronger, when the greatly superior advantages possessed by the accounting officers of that early period, for detecting the invalidity of unfounded claims, are considered.

The accounting officers were then intimately acquainted with the history of the particular corps and lines of the army with which they were required to settle, and probably with the particular services of almost every officer composing them. They had before them the original muster-rolls and other returns of the army, showing the services of the officers, and, in case of doubt, could readily call on living testimony to solve it. We have none of these advantages. Conflagration and pillage have destroyed and scattered the muster-rolls and other original returns of the revolutionary army, and time has closed over all personal knowledge and parol evidence of the

transactions of that period, but such as must necessarily be of a very uncertain and unsatisfactory character.

If the original muster and pay-rolls of the army which were in existence at the close of the war had been preserved, we should doubtless have the means of ascertaining the true character of most, if not all, of the claims which have been presented for commutation.

In relation to the destruction of these papers by the burning of the War Office in November, 1800, we have a report of the Secretary of War, of the 17th February, 1801. In describing the papers destroyed, under the head of "Relating to the accounts of the old army," we have the following:

"Several cases containing muster and pay-rolls, others containing accounts and vouchers of sundry paymasters and agents for paying troops, and one case containing individual settlements made by the late Paymaster General and commissary of army accounts." The Secretary then proceeds: "These papers could only be of use in the examination of claims for services prior to the establishment of the present Government, *which, if not already settled, are all barred and foreclosed by acts of limitation.* This loss, therefore, will not materially affect the unsettled accounts of the United States." (State Papers, 1 Miscellaneous, 232.)

In relation to the injury which the remaining revolutionary papers received by the capture of this city during the late war, we have the following from the report of the Secretary of War of October 27, 1814:

"I have the honor to state, that the books and papers belonging to this office were removed, and are now in a state of safety, excepting a part of the papers and army accounts appertaining to the revolutionary war, which had been saved from the flames on the burning of the house occupied by the War Department in 1800. It is not probable that the loss of these papers can have any effect in the adjustment of the unsettled accounts of the United States, as the claims, if any, which might arise under them, *have all been barred by act of limitation.*" (State Papers, 2 Miscellaneous, 251.)

It had not entered into the imagination of either of these Secretaries, that, after a lapse of fifty years from their date, the claims depending for the proof of their truth or falsity on the existence of those revolutionary papers, were to be again revived, and their justice and validity to be presumed, in consequence of the absence of those very papers. Such, nevertheless, is the fact.

In the report of the Committee on Revolutionary Claims made to Congress in 1834, before mentioned, the character of these claims is thus described:

"The claims now presented are generally in behalf of officers who can be shown to have been in active service up to the close of 1780, or during the year 1781, and some of them in 1782, and even as late as the spring of 1783, but cannot afterwards be traced in active command. The question of fact, in relation to all these cases, is, from what cause did they cease to be in active service at these periods?"

This question of fact the committee proposed to settle, not by the usual rule of requiring the claimant to make out his case by proof, but by the following *rules of presumption*, which were incorporated in the bill they reported:

"*First.* It being established that an officer of the continental line was in service, as such, on the 21st of October, 1780, and until the new arrangement of the army provided for by the resolution of that date was effected,

he shall be *presumed*, unless it appear that he was then retained in service, to have been *reduced* by that arrangement, and, therefore, entitled to half pay for life, or the commutation in lieu of it."

"Second. A continental officer, proved to have remained in service after the arrangement of the army under said resolution of October, 1780, shall be *presumed to have served to the end of the war*, or to have *retired*, entitled to half pay for life, unless it appear that he died in the service, or resigned, or was dismissed, or voluntarily abandoned an active command in the service of the United States."

In reference to these presumptions, the report holds this language:

"The resignation of an officer ought to appear upon some record. If it does so appear; it puts an end to all the other presumptions and determines the case, unless the entry is found to have been erroneously made. If it does not appear upon record, and is not otherwise proved, there is no reason why it should take the place of other presumptions, more favorable to the officer, and, considering the consequences of resignation, much more reasonable. In the absence of proof, it is not to be presumed that an officer would voluntarily renounce the advantages held out to those who should not resign; and as the war approached its termination, the presumption against resignation became stronger."

Here, then, we have a presumption raised against the resignation of an officer, because of the great advantages held out to him by the half-pay resolutions, on which presumption he is to be adjudged entitled to commutation; whereas, the starting-point, on which the report places the propriety of allowing these claims to be presented at all, at this late day, is the contrary presumption, that the officer was either ignorant of the provision in his behalf at the close of the war, or deemed it of too little importance to apply for it. Surely, a class of claims which require such logic to sustain them cannot but be viewed with suspicion.

The bill reported by the committee in 1834, from which the foregoing rules of evidence have been copied, was debated in Committee of the Whole on the state of the Union, and reported to the House; when the debate was renewed, and the bill finally recommitted to the Committee of the Whole on the state of the Union, by a decided majority. This last vote was equivalent to a rejection of the bill in the form in which it was reported. The bill was never afterwards considered, but the Committee on Revolutionary Claims, in the examination of individual applications for commutation, have continued to act upon the rules of presumption contained in it; and on the propriety of those rules depends the fate of all the commutation claims now pending, as well as the justness of the acts which have been heretofore passed.

As this presumption against the resignation of an officer after the passage of the resolutions of October 21, 1780, is the hinge on which all these cases turn, it seems to deserve a more particular consideration.

\* Doubtless, the provision of half pay, made by the resolution of October, 1780, was an additional inducement to the officers to remain in service; but there would necessarily be various influences operating from time to time in individual cases, that would present still stronger inducements in favor of resignation. Considerations peculiar to military life, such as questions in regard to rank and promotion, personal dissatisfaction with commanding officers, or strong dislike to a particular service, would be likely to influence some; while others would be drawn from the army by

changes in family arrangements, by flattering offers in business, or by appointment to office, or favorable prospects of promotion in civil life. In point of fact, many officers did resign after that period, as will hereafter be shown.

But this question of presumption ought not to be considered, as it has heretofore been, with sole reference to the *motives* which may be supposed to have operated either to prevent or produce resignations. A state of facts might perhaps exist, where the rule adopted by the committee of 1834 might not be particularly objectionable. If the muster and pay-rolls, and other records of the army, which ought to show the history of the service of all the officers, were in a state of perfect preservation; or if, while such papers were in existence, an official list of resignations and other casualties had been carefully made from them, and that list were now in the possession of the Government, no great injury might arise from any rule of presumption. A reference to the rolls or list would put an end to the presumption, by ascertaining the fact. But we have already seen that the records of the services of the officers of the revolutionary army have long been destroyed; and we learn from the report of the Secretary of War to the select committee of the last session, that no list of resignations was ever made from those papers. (See appendix No 10, A, B, C, and No 5, letters from the Third Auditor, Commissioner of Pensions, and Clerk of Bounty Land Office.) When, therefore, the report of 1834, which has been quoted above, says, "*the resignation of an officer ought to appear upon some record,*" it should in candor have been added, that it could not so appear, because the records had been destroyed.

But the impropriety of this rule of presumption will be placed in a still stronger light, by the important additional fact, that, although there never was any list made of the resignations of the officers of the army, there is an official list purporting to be a list of all the officers of the army who either served to the end of the war, or retired as supernumeraries. A description of this list, called "the officer's book," will be found in the letters accompanying the report of the Secretary of War, (Nos. 10 and 5, appendix,) particularly the letter of the Third Auditor, whose knowledge of the list commenced with his first employment in the department in 1793.

The list now referred to purports to be a list of officers entitled to bounty lands from the United States, and contains, of course, a list of the names, not only of those who served to the end of the war, and of those who became supernumerary after the passage of the half-pay resolutions of October, 1780, but also a list of those who became supernumerary in 1778 and 1779. It seems probable to the committee that the list was made in conformity with the provisions of "an ordinance for ascertaining the mode of disposing of the western lands," adopted May 20, 1785, which directs the Secretary of War to determine, "from the returns in his office, or such other sufficient evidence as the nature of the case may admit," who were the objects of the land bounty. The list is in the handwriting of Mr. Howell, who in 1788 was appointed commissioner of army accounts, and who had been in the War Department as assistant to the Paymaster General from the close of the war, and probably from an earlier period. This list, in the opinion of the committee, is entitled to all the credit which the Third Auditor, who has known it longest, is disposed to give it.

This list, including, as before stated, all the officers who served to the end of the war, and all who became supernumerary from 1778, must neces-

sarily comprehend all who were entitled to commutation. It seems to the committee, that if the name of an applicant for commutation is not found upon it as entitled, it should at this late day be taken as evidence that the claim was unfounded; subject to be rebutted only by clear and authentic proof, that though the name of the applicant was omitted in the list, he did, nevertheless, become supernumerary, under the reductions of the army made in obedience to the resolutions of October, 1780, or that he did serve to the end of the war. But, in the examination of modern commutation claims, little or no attention appears to have been paid to this list. The presumption which the imagination has raised against resignations, aided by parol testimony contained in *ex parte* affidavits recently taken, often weak and uncertain in its terms, and always, from its nature, little to be depended on, has been suffered to cast in the shade the authority of this ancient document, and to decide the cases in favor of the claimants.

The examination made by the select committee of the last session, and by the present committee, has brought to their notice other documentary evidence hitherto unknown or overlooked, which has a highly important bearing upon this class of claims, and tends strongly to confirm the view here taken of the general correctness of the list contained in "the officer's book," and of the uncertain and dangerous character of the presumptions and parol evidence on which their predecessors on the committee have heretofore relied. Of that part of the evidence which they deem of most importance, the committee will now proceed to give some account.

The first document which the committee will mention is the original arrangement of the Virginia line made at White Plains, on the 11th of September, 1778, by direction of a committee of Congress, and in conformity to resolutions of January 10, May 27, June 4, and August 6, 1778. This document is found among the papers purchased by this Government of the heirs of General Washington, deposited in the State Department. By this arrangement, the fifteen regiments of infantry were reduced to eleven. This arrangement gives the names of the officers who were retained in service, the names of those who were prisoners of war, and of those who became supernumerary in consequence of the reduction. There is also among the Washington Papers a copy of the subsequent arrangement made at Middlebrook, in March, 1779, in compliance with resolutions of Congress of November 24, 1778, and February 4, 1779; this arrangement being, with few slight variations, a confirmation and re-establishment of that of September previous. The complement of officers required for each regiment was 29, and of course for the whole line 319. The number of officers retained in service at Middlebrook was 281; the vacancies being 38 ensigns, and the supernumeraries, including those of September previous, 45. There is likewise among the Washington Papers a copy of a *part* of an arrangement of the officers of the Virginia line, made by a board of field officers, on the 23d of September, 1779, containing a rank-roll of the field officers and captains; giving the names and dates of commissions of the 33 field officers, 66 captains, and 11 captain-lieutenants. The copy refers to the original, as containing a regimental arrangement of all the officers as then established, and as also having annexed to it, by order of the board, copies of the whole arrangements made at White Plains, in September, 1778, and at Middlebrook, in March, 1779. This original has not been found, having doubtless been transmitted to the board of war, and subsequently destroyed in one of the conflagrations before mentioned.

But a document of still greater importance than the foregoing is a copy of the arrangement of the Virginia line, made at Chesterfield, in February, 1781, in obedience to the resolutions of the 3d and 21st of October, 1780. This is found in the Pension Office, being a copy furnished in 1833, from the original among the public archives at Richmond.

The caption of the proceedings is as follows, viz :

" At a board of field officers begun at Chesterfield, February 10, 1781, by order of Major General Baron Steuben, for the purpose of arranging the Virginia line: Present, Colonels John Gibson, William Davis; Lieutenant Colonels Oliver Towles, Richard Campbell, Thomas Gaskins, John Webb, Richard Taylor; Majors John Hayes, Thomas Posey, John Willis, George Gilchrist, Smith Snead; there were also present, though not of the board, Colonel George Matthews, Lieutenant Colonel Jonathan Clarke, and Major William Croghan: the following rules for regulating the arrangement were agreed to."

The rules, which are sixteen in number, covering several pages of closely written paper, will not be inserted in this place, excepting only the 4th and 5th, which seem necessary to a full understanding of the arrangement.

" Rule 4th. Agreeably to the terms of Major General Baron Steuben's proclamation, it is determined, that all officers that do not attend at this place on or before the 18th instant, shall be adjudged superseded, or *subject to a court of inquiry*, (according to circumstances,) unless some probable reason shall be alleged in excuse for their absence.

" Rule 5th. All officers who shall by this board be adjudged *superseded* shall entitle their successors to commissions to be dated from the 18th instant; and such as shall be reported subject to a court of inquiry, shall be excluded from the line, and superseded, unless their application to some commanding general, or field officer, for such court of inquiry to be held upon themselves, shall be made on or before the first day of May next; and in case such application shall not be made, or the decision of such court of inquiry shall be against such officer, such vacancies shall be considered as having happened on the 18th instant."

After the 16th rule, the arrangement proceeds thus:

" Agreeably to the foregoing rules, the following officers became supernumerary, either by choice or juniority :

#### *Colonels.*

William Heath, juniority; Abraham Buford, juniority.

#### *Lieutenant Colonels Commandant.*

William Darke, juniority; Levin Joines, juniority; Burgess Ball, juniority.

#### *Lieutenant Colonels.*

John Webb, juniority; Richard Taylor, juniority; Richard C. Anderson, juniority.

#### *Majors.*

Thomas Ridley, choice; John Hayes, choice; Andrew Waggoner, jun., conditional upon the rank of; John Gilchrist, choice; Thomas Hill, juniority; William Taylor, juniority; William Mosely, juniority; Peter B. Bruin, juniority.

*Captain-lieutenants.*

William Eppes, choice; John Crittenden, choice; Arthur Lind, choice."

The following officers, for whose non-compliance with the proclamation of the honorable Major General Baron Steuben no good reason has been alleged, are superseded, or subjected to a court of inquiry, according to their respective circumstances which appear to the board:

*Superseded.*

Captains Richard Stephens, 6th regiment.

William Vause, 8th regiment.

John Steed, 4th regiment.

Lieuts. David Williams, 8th regiment.

Edward Smith, 7th regiment.

Ensign Thomas Holt, 1st regiment.

*Subject to a court of inquiry.*

Ensigns Philip Coartney, 1st regiment.

William Scott, 4th regiment.

Spencer Morgan, 7th regiment.

William Baylis, 8th regiment, supposed to have resigned."

This arrangement then gives a rank-roll of the field officers, 8 of each grade, arranged and numbered according to seniority; next, a rank roll of captains, 72 in number; and, finally, a list of all the officers of each of the eight regiments retained in service, being a list of 24 field officers, 72 captains, 104 lieutenants, and 44 ensigns—268 officers in the whole.

The committee have been thus particular in describing the proceedings of this board of arrangement, because it is the arrangement under which most of the applicants for commutation of the present day claim to have become supernumerary; and because the Commissioner of Pensions, in whose office the arrangement is found, does not seem to take the same view of it which the committee do. The Commissioner of Pensions, in his letter appended to this report, (No. 10, C,) speaks of this arrangement as giving "the names of *some* who were supernumerary," and says: "This list was made in 1781, as a *part* of the report of the board of officers, more for the use of those who were retained in the service, than for the purpose of showing who had left the army under the resolutions of Congress."

The committee are satisfied the Commissioner has wholly mistaken the character of this paper; that it not only contains a list of *some* who became supernumerary, but a list of *all*; that it was not made as a *part* of the report of the board of officers, but as the *whole* of their report; and that it was made as well for the purpose of showing who had left the army under the resolutions of Congress, as for showing who were retained; and that it does show the one as fully and as perfectly as it does the other. And for these opinions they assign the following reasons:

1. The paper itself purports to be a full account of the proceedings of the board of arrangement under the resolutions of Congress; it purports to give a full list of the officers who became supernumerary; it purports to give a full list of all who were superseded, or were subjected to a court of inquiry; it purports to give a full list of all the officers retained in service. There is nothing about the paper which indicates that it is but a *part* of the report of the board, or is imperfect in any particular.

2. The resolution of the 21st of October, 1780, which directed this arrangement, required that the officers who should meet in their respective States for the purpose of determining who were to be retained, and who to become supernumerary, should "make return of those who were to remain, *together with the names of the officers reduced.*" This board of officers met for the purpose of performing the duty required by the resolution ; it was a board of intelligence and ability, and it is not to be presumed they performed it in part only.

3. From the manner in which the Commissioner speaks of this list, as containing the names of *some* who became supernumerary, it is not improbable his opinion that it did not contain the names of all the supernumeraries was hastily taken up, under the apprehension that the number was smaller than it ought to have been. If we were to take the number of applications to Congress for commutation, which are claimed on the ground that the officers were reduced by this arrangement, then, indeed, the number of supernumeraries ought not to be less than one or two hundred at the least ; but if we consider the precise amount of the reduction which was to be made, and look also at the history of the time, we shall very readily understand that the number of supernumeraries must have been very small. The Virginia line was by this board reduced from eleven to eight regiments. If the eleven regiments were full, they contained twenty six company officers each, making two hundred and eighty-six in the whole, besides field officers.—(Journals of Congress, May 27, 1778.) The eight new regiments (resolution 21st October, 1780) were to have thirty-one company officers each, making two hundred and forty-eight officers in the whole, and showing a difference of thirty-eight officers ; which number of company officers would be reduced, if all the regiments were full. But there is good reason to believe, from the account we have of the army at that period, that the vacancies were numerous. From the letter of General Washington to the President of Congress, of the 11th of October, 1780, which was made the foundation of the resolutions of the 21st of the same month, the committee make the following extracts :

"That there are the most conclusive reasons for reducing the number of regiments, no person acquainted with the situation of our affairs, and the state of the army, will deny. *A want of officers*, independently of other considerations, is sufficient to compel us."

And in the same letter, after speaking of the very great number of resignations which had then recently taken place, and the difficulty of keeping the army together without some further provision for the officers, he says :

"After having exhibited this view of the present state of the army, it is almost needless to add, that, excepting in the rank of field officers, and a very few captains, we shall have new officers to provide, rather than old ones to disband, at the reduction of regiments ; and how they are to be had I know not, no disposition having been discovered of late to enter the service. Congress have little to apprehend on account of the expense of supernumerary officers, when that event takes place."—(See note to 4 Jour. old Congress, page 212.)

General Washington, in this latter extract, spoke in reference to the reduction proposed in the resolutions of October 3, which had been transmitted him for his opinion, and on which his letter is a commentary. Those resolutions left the same number of company officers, to wit, six captains and eighteen subalterns to each regiment, as they had before contained.

Under that arrangement General Washington says there would, besides field officers, only be a few supernumerary captains. By the resolutions of October 21, the number of captains was increased from six to nine, and the number of subalterns from eighteen to twenty-two; making an addition of seven officers to each regiment; under which arrangement there could, of course, be no supernumerary captains. For in the old eleven regiments there would be but sixty-six; whereas the eight new regiments, having each nine captains, would number seventy-two: being an addition of six captains in the whole. It is accordingly found, from the arrangement, that, after the reduction of the Virginia line, there were still twenty-eight ensigncies remaining vacant in the eight new regiments, for the want of officers to fill them. But this question of the number of supernumerary officers is put at rest by the arrangement itself, which declares that there were not more subalterns than would be sufficient for the eight new regiments. The fourteenth rule adopted for the regulation of the arrangement is as follows, *viz.:*

*"As there are not more subalterns than may be sufficient for the line,* it is agreed that such captain-lieutenants as choose to continue in service shall be admitted as the eldest lieutenants, and shall rise accordingly, as directed in the twelfth and thirteenth articles."

The supernumeraries are seen to correspond in grade and number to what had been anticipated by General Washington, and to the resolution of the board. They were sixteen field officers and three captain-lieutenants; nineteen in the whole—the three captain-lieutenants preferring to retire, rather than sink their rank to that of eldest lieutenants.

The committee conclude, then, that this document does contain a full and perfect list of the retiring officers of the Virginia line, under the resolutions granting half pay for life, of October 21, 1780; and that, of consequence, a very slight foundation remains for the hundred recent commutation applications, wherein the officers are alleged to have become supernumerary under this arrangement.

It may not be improper to add, that a copy of that part of the Chesterfield arrangement which relates to the officers retained in service, but omitting the proceedings of the board, and the names of supernumerary and superseded officers, is also found among the Washington Papers in the State Department, (Army Returns, vol. 101.) It corresponds, so far as it goes, with the copy from Richmond, and thus confirms the authenticity of that document.

Another document, of some importance in the investigation of commutation claims, is also a copy from Richmond of the list of officers retained in service at the arrangement of the Virginia line, made at Cumberland old court-house in May, 1782, in obedience to the resolution of Congress of the 23d of April, 1782, by which the number of lieutenants in each regiment (besides those of the line serving in the staff) was reduced to ten; attached to which list, is a list, also made at Cumberland old court-house, but under date of the 2d of September, 1782, of officers who had been "killed, invalidated, resigned, and superseded," since the arrangement at Chesterfield. It should also be mentioned, that, on the margin of the list of officers at the arrangement at Chesterfield, and at Cumberland old court-house, under the head of "remarks," there are against the names of many of the officers, entries of "resigned," "superseded," &c.; which entries were doubtless made, not by the board of arrangement, but by the officer who afterwards had charge of the documents, or perhaps by the subsequent board

at Winchester. (For the list of September 2, 1782, above mentioned, see appendix, No. 11.)

Another document of importance in the investigation of commutation claims is the report of the board of arrangements of the Virginia line, which met at Winchester on the 27th of December, 1782, made in compliance with the resolutions of Congress of August 7 and November 19, 1782, and to take effect on the 1st January, 1783, by which the line, including infantry and artillery, was reduced to less than two regiments. The original report, in the handwriting of Colonel Wood, the president, is found among the Washington Papers, (107 Army Returns,) and there is a copy from Richmond in the Pension Office.

There can be no doubt that this is a full and perfect report of the whole proceedings ; and it contains lists, made in conformity with the requirements of the resolutions which directed it, of the several classes of officers who were retained, as well as those who were reduced. The number of officers retained in service was fifty-one ; and the number reduced one hundred and seventy-nine, including those who were prisoners of war.

Of this arrangement, and of the previous arrangement at Chesterfield, Mr. Howell, commissioner of army accounts, in a letter to Thomas Wishart, (who was applying for commutation,) under date of January 9, 1793, holds the following language :

" On the arrangement of the Virginia line in 1781, under the acts of Congress of the 3d and 21st of October, 1780, you have not been mentioned ; and on the arrangement of the same line in 1782, when all the officers of that line who were considered in continental service were called on to state their claims and rank to a board of officers appointed by the commanding officer to decide on them, it does not appear that any application on your part was made to the board. Neither does it appear that the board considered you as an officer of the line ; for, if they had, you would certainly have been mentioned on their minutes, *as one considered in service, retiring from it with the emoluments, or superseded for non-compliance with the general orders.*" (See resolutions, &c., on revolutionary claims, compiled by order of the House in 1838, page 145.)

The proceedings of this board appear to have been conducted with great deliberation and order. The board met on the 27th of December, and adjourned from time to time until the 6th of January ; during which time many questions in reference to the rank and standing of different officers were heard and decided, of which a full account is given in their report. Among these, were the applications of two officers, Captain Ransdell and Lieutenant Ashby, who had been superseded at the arrangement at Cumberland court-house, in May previous ; who now appearing before the board, and showing that they were at home on furlough, and unable to attend at that place by reason of sickness, they were unanimously restored to their ranks. Their names appear on the list of resigned and superseded officers of September 2, 1782.

There can be no doubt but that this arrangement, as well as that at Chesterfield, was intended to include, and to show the position, whether in service or as supernumerary, of all the officers of the Virginia line who were entitled to the benefits of the half-pay resolutions of October, 1780 ; and the committee think there can be as little doubt that these arrangements do show such position with as much accuracy as the nature of the duty which the boards were required to perform would permit ; and that the in-

stances must be very rare of the omission of the name of an officer who was justly entitled to such provision.

But, besides these arrangements of the army, which have hitherto remained either unnoticed or unknown, there is other authentic documentary evidence having an important bearing upon the services of the officers of the Virginia line, which, though sometimes referred to in the examination of commutation claims, has not, in the opinion of the committee, been always received with that attention and respect which it deserves.

The most important portion of this evidence grows out of the proceedings of the authorities of Virginia, under an act of the General Assembly of that State, passed in November, 1781, alluded to in a former part of this report. That act provided, among other things, for making good the depreciation pay of the officers of the continental line of that State, and for paying the accounts of such officers from the 1st day of January, 1777, to the 1st day of January, 1782—the term of five years. The accounts of the officers were to be adjusted by the auditors of the State, and the depreciation pay could not be obtained in any other manner than through such adjustment. As that pay amounted to more than four-fifths of the sum of the original pay, it is not to be presumed that any officer, who performed any considerable service during the five years covered by the act, omitted to claim and receive it. After the end of the year 1781, the accounts of the officers were adjusted in conformity with the provisions of the act, and a list of the settlements, together with the several accounts adjusted, are still preserved in the auditor's office at Richmond. (See appendix No. 7.) The list and accounts furnish very strong, if not conclusive, evidence of the services of the officers during that period. If an officer's name is not found on the list, he must be presumed not to have served during that period. If his name is found, his account on file will show the term of his service. Thus, if it appears by an officer's account that he received his depreciation pay from the 1st of January, 1777, to the 31st of December, 1781, he must be presumed to have served that period, and, perhaps, to have continued in service afterwards. But if in 1783 he settles his account, and receives pay only up to August, 1780, then he is to be taken to have quitted the service at that time; for it cannot be supposed he would have omitted to claim his pay to a later period, had it been due him. Certificates, giving all necessary information in reference to the service of any officer, as shown by these settlements, have been promptly furnished by the auditor of Virginia, whenever required by any member of the committee.

It should be remarked, that the depreciation pay of the continental troops was made good by Virginia, on the recommendation of Congress, on account of the United States; and that the payments were not confined to officers who were strictly and literally officers of the continental line, but included others, who, as being in continental service and pay, were deemed to belong to the continental establishment, so far as to make the United States responsible for the payments made them. Thus, payments were made to sundry staff officers; also, to officers of the "convention guards;" and perhaps to others, though they had no rank or command *in the line*, and were never deemed entitled to commutation.

Another portion of documentary evidence is derived from the settlements made by the authority of Congress, after the close of the war, with the officers of the army, and on which final-settlement certificates were issued, as has been hereinbefore stated. A list of all the final-settlement certificates issued,

and, so far as relates to the Virginia line, either the original accounts which were settled, or copies of them, are still preserved in the office of the Third Auditor, from which the particular services rendered and paid for may be ascertained. These certificates include the amount of the five years' full pay of those officers who settled their accounts, whenever they were entitled to it.

The committee will mention but one other piece of documentary evidence, from which light may be thrown on the claims of revolutionary officers; which is, a list found in the office of the Third Auditor, of the officers of the Virginia line entitled to three months' specie pay in 1782, and four months' specie pay in 1783. This list, on which the resolutions of Congress of the 10th of October, 1786, were founded, appears to have been made by the Paymaster General, and comprehends all officers who were deemed to have been in service for either three months during the year 1782, or four months in 1783, including the retiring officers under the Cumberland and Winchester arrangements, as well as those in actual command. It is an official document, not only recognised by Congress, but also by the General Assembly of the State of Virginia, who, on the 6th of January, 1787, resolved "to pay the officers of the Virginia line on continental establishment, *agreeably to the return made to Congress by the Paymaster General*, the amount of three months' pay due for the year 1782, and four months' pay due for the year 1783," in conformity with the recommendation of Congress in the resolution of the 10th of October, 1786, before mentioned.

The several arrangements of the army before described, and all the other documents which have since been noticed, will be found to harmonize with and strengthen each other. Together, they furnish a mass of authentic evidence, which, when carefully examined and applied to individual cases, will tend to increase our distrust in the rules of evidence heretofore adopted, and our confidence in the general accuracy of the recently discarded "officer's book."

Of the sixty-two modern acts granting commutation pay, before mentioned, twenty-nine of them were for services alleged to have been performed by officers in the Virginia line. The names of these twenty-nine persons who thus, as officers, have been allowed commutation, in the chronological order in which the acts granting it have been passed, are as follows, viz: Philip Slaughter, James Barnett, Robert H. Harrison, William Price, Thomas Blackwell, William Vawters, John Roberts, George Baylor, William Carter, Edmund Brooke, John Thornton, Thomas Triplett, John Thomas, Peter Foster, Thomas Minor, James Craine, John Taylor, Everard Meade, William Royal, William Teas, John Emerson, Buller Claiborne, Thomas Wallace, Robert Jouett, Thornton Taylor, John Spitsathom, Daniel Duval, Charles Snead, Timothy Feely. The amount paid from the Treasury for the commutation pay of these persons is \$141,875 64. (Appendix No. 8.)

With the view of determining whether the rules of evidence which have been heretofore applied to this class of claims may be safely and properly continued in the investigation and decision of others, the committee will proceed, as briefly as may be practicable, to call the attention of the House to the facts as they now appear in each of these cases. If it shall be found (as the committee think it will be) that few or none of these claims are shown to be well founded by satisfactory evidence, and that a great majority of them are clearly and decidedly bad, the House will doubtless concur with

the committee in the opinion that new principles should be adopted in future adjudications.

But, before proceeding to this examination, it seems necessary to premise sundry general remarks, which have an application to these individual claims, and which should be borne in mind while considering them. And,

*First.* The claim to commutation, as has been heretofore shown, is not, like the claim to a pension, founded in gratitude for meritorious services, and due only to the person performing them; but is a pecuniary obligation arising out of a contract between the old Government and the officers of the army, which, if due, is a debt which a court of law having jurisdiction would enforce, and which, like other debts, is a part of the estate of an officer, and descends to his heirs; that, in order to entitle an individual to commutation, it must appear that he was an officer in the continental line of the revolutionary army; and that, as such, he either served to the end of the war, or left the service as a supernumerary, after the passage of the resolution of the 21st of October, 1780.

*Secondly.* It should be remembered that active hostilities with the enemy ceased in Virginia with the capture of Cornwallis, in October, 1781; and that, in the common language of that State, the war is said to have then terminated. When, therefore, a witness testifies that any particular person served in the army to the end of the war, supposing the witness to be honest and his recollection accurate, the person should be taken to have been in service until the autumn of 1781.

*Thirdly.* It should nevertheless be remembered, that the war did continue until the 3d of September, 1783, when the definitive treaty of peace was signed at Paris; and that the continental army was not disbanded until the 3d of November, 1783. The former date (September 3, 1783) is the period to which pensions are allowed under the act of June 7, 1832; and the latter (November 3, 1783) the period to which land allowances are computed by the authorities of Virginia.

The committee will now proceed to the examination of the individual cases before enumerated; and, first, the case of

### *Philip Slaughter.*

On the 23d of December, 1782, Captain Philip Slaughter received from the State of Virginia a land warrant for three years' service in the continental line; and on its being granted, there appears to have been entered in the register's office of that State, against his name, "resigned in February, 1781." On the 26th of May, 1828, an act was passed, granting him commutation pay, with a proviso that the acceptance of commutation should deprive him of the benefit of the act of 15th May, 1828. On the 29th May, 1830, the proviso in the former act was repealed; and on the 1st June, 1830, he was admitted to the benefit of the act of May 15, 1828. On the 8th of July, 1830, Captain Slaughter obtained bounty land from the United States, 390 acres; and on the 19th of August, 1830, an additional allowance of 1,000 acres from the State of Virginia, for a service of 18 months over six years; and March 2, 1833, an act passed, allowing him interest on his commutation pay. The amount of his modern allowances is as follows:

Commutation under act of May 26, 1828	-	-	\$2,400 00
Interest by act of March 2, 1833	-	-	6,557 20
300 acres land scrip, for United States bounty, at \$1 25	-	-	375 00

1,000 acres land scrip, for Virginia bounty	\$1,250 00
He has received under act of May 15, 1828, to March 3, 1840,	
\$480 per annum; from March 3, 1826, 14 years	6,720 00
Amount of payments from the Treasury	17,302 20

It appears from the report of the committee on his case, that soon after the campaign of 1779, Captain Slaughter, who had been an officer in active service, "returned to his home in Virginia on furlough, got married, remained at his residence in Virginia, and did not afterwards join the army." There is no pretence that Captain Slaughter performed any service after 1779. It appears further, that in the fall of 1779, fearing he might be again called into active service, the Virginia line having been ordered to the south, he placed his commission in the hands of a friend, to be resigned in case he was ordered out; but the call on the officers (he being a junior officer) passed him unnoticed, and he held on to his commission. The committee were of opinion that "Captain Slaughter did *virtually* continue in service to the end of the war," and reported the bill. By a certificate obtained from the auditor of Virginia, it appears that on the 1st day of April, 1783, Captain Slaughter made a settlement with the accounting officers of that State, of his depreciation and full pay as a captain, from the 1st of January, 1777, to the 15th of February, 1781; at which time he doubtless resigned, as stated in the entry made on his obtaining his first bounty-land warrant. His name appears as a captain of the 7th regiment, on the three arrangements of September, 1778, March, 1779, and September, 1779; but is not to be found on that of February, 1781, or either of the subsequent arrangements. The order of the board of arrangements at Chesterfield, in February, 1781, made in conformity with the proclamation of Baron Steuben, for superseding all officers who did not appear by the 18th of February, rendered it impracticable for Captain Slaughter to remain longer "*virtually in service*," and he accordingly gave up his commission. The facts of the entry of his resignation on obtaining his land warrants; of his being paid only up to February, 1781; and of the absence of his name from the subsequent arrangements, were unknown to the committee who reported the bill. Captain Slaughter, having served more than three years, was entitled to the land warrant which he obtained from Virginia in 1782; but having resigned in February, 1781, all his subsequent allowances, both of land and money, are unfounded.

*Lieutenant James Barnett.*

An act passed granting James Barnett the commutation pay of a lieutenant, May 28, 1830; and on the 3d of March, 1833, another act, allowing interest on his commutation pay, was passed. He was paid from the Treasury \$4,830 30. He became a supernumerary at the arrangement at White Plains in September, 1778, as appears by that arrangement, and by the confirmation of it at Middlebrook, in March succeeding. His name is not found on any of the subsequent arrangements. He is also returned on the "officer's book," in the Bounty Land Office, as having become a supernumerary lieutenant on the 30th of September, 1778; and it now appears, from a certificate of James E. Heath, obtained by the select committee of the last session, that Lieutenant James Barnett was settled with, by Virginia, on the 28th of May, 1783, and received his pay as lieutenant to the

30th of September, 1778, and no longer. This seems conclusive that his service ended at the period stated on the officer's book, and of course he had no claim whatever to commutation.

It appears, from a return attached to the arrangement of 1778, that James Barnett was appointed ensign on the 4th of March, 1776. Having served only to the 30th September, 1778, about two years and seven months, he was not entitled to land from Virginia. It does not appear that he applied for it until April, 1809, when a warrant for 3,444 acres, for a service of *seven* years, was granted him. This allowance of land for seven years' service, on parol evidence, when it appears of record that his service was less than three years, and that therefore he was not entitled to any land, is believed to be a fair sample of a great portion of the modern allowances of that bounty.

*Robert H. Harrison, a staff officer.*

On the 29th of March, 1830, an act passed granting commutation pay to the heirs of Lieutenant Colonel Robert H. Harrison; and on the 14th of July, 1832, another act authorized interest to be paid on the claim: the whole amounting to \$10,854 58. Robert H. Harrison entered the army as aid-de-camp to General Washington, but soon became his private secretary; and while acting in that capacity, on the 5th of June, 1776, Congress passed the following resolution:

*"Resolved,* That the aids-de camp of the commander-in-chief rank as lieutenant colonels; that the aids-de camp of major generals rank as majors: that Robert H. Harrison, Esq., have the rank of lieutenant colonel in the continental army."

He continued in the family of General Washington, as his secretary, until the winter or spring of 1781, when he left the service, and never afterwards joined the army. The committee who made the report on which the bill was founded, thus speak of his services: "He held his commission, and continued in that rank, till the close of the war. From October, 1775, when he entered the service as aid de-camp, he continued in the service, actively and arduously employed, either in the immediate duties of his station, or as principal secretary to General Washington, until 1781, when, being reduced by the laborious duties of his service, he was compelled to leave the army *on furlough*. He was not, after this time, able to join it again, *by reason of his enfeebled health, but held himself ready to do so whenever his state of health would permit.*"

Waiving, for the present, any question as to the manner in which Colonel Harrison left the service, this committee, supposing him to have continued in it to the end of the war, do not conceive it to have been a service which would have entitled him to commutation. He evidently belonged to the general's staff, and not to the line of the army. Officers of the staff, as such, were never promised either half pay or commutation. The resolutions of the 3d and 21st of October, 1780, which for purposes of construction should be read together, speak only of *regimental officers of the line*, and do not include in the half-pay provision any other class. In their terms, they even excluded *general officers of the line*, as appears by the explanatory resolution of November 28, 1780. They also excluded the corps of engineers, and that of the sappers and miners, who, by resolve of the 14th November, 1780, are "put on an equal establishment with the officers of the line." The

provision subsequently made by resolution of January 17, 1781, for the officers in the hospital department and medical staff, shows clearly that neither staff officers in general, nor even officers of the regimental staff, were considered as included in the previous resolutions ; for, among the officers provided for by the latter resolve, were regimental surgeons. This early construction of the half-pay resolutions, and of the commutation resolutions of March 22, 1783, which speak only of *officers of the line* and of those in the hospital department, was never deviated from. Staff officers, as such, were uniformly excluded from commutation ; they were also excluded from the allowance of land bounty under the resolutions of September 16, 1776. The case of William Finnie, who was appointed deputy quartermaster general, *with the rank of colonel*, is similar in principle to that of Colonel Harrison. After the close of the war, he applied for the emoluments of a colonel, by virtue of his commission giving him that rank. But his claim was rejected, both by the old Congress and the new Government, as contrary to established regulations ; and in reference to his claim to bounty land, Colonel Hamilton, in his report, as Secretary of the Treasury, of April 10, 1790, says, "it does not appear to be warranted, either by the resolutions of Congress respecting bounties of lands to officers and soldiers, or by the practice upon those resolutions ; nor does any circumstance occur to justify the allowance to the memorialist, without extending it to a number of other persons in like situation." (See resolution of Congress, February 2, 1786 ; and State Papers, volume on Claims, page 16.) For this distinction between officers of the line and those of the staff, there is good reason. The duties of the former required a much greater sacrifice of personal comfort, and exposure to personal danger, than the latter. Places in the staff were highly desirable ; whereas there was great difficulty, as abundantly appears from the letters of General Washington, in supplying those of the line with suitable incumbents. Colonel Harrison, being a staff officer, could not, in the opinion of this committee, under any circumstances of his service, be entitled to commutation.

But the facts in relation to the manner in which Colonel Harrison left the service, on which the committee acted who reported the bill, and which were proven only by parol, were wholly unfounded. Instead of Colonel Harrison's leaving the family of General Washington in consequence of ill health contracted by laborious service, and leaving it on furlough, holding himself ready to return whenever his health would permit, he left it by voluntary resignation, for a more honorable and profitable civil station in the State of Maryland, of which he was a citizen. The following is an extract of a letter from Robert H. Harrison to General Washington, dated "Nanjemoy, February 26, 1781," the original of which is found among the Washington Papers. (Letters to Washington, vol. 47 :)

"I have been kept here in an irksome situation, with respect to the business which obliged me to leave camp, both from the nature of it, and from the death of Mrs. Harrison before she received her part, and her dying intestate, as I took the liberty to mention to your excellency. Those circumstances, together with the untoward unaccommodating disposition of too many of her representatives, have continued things to the present moment in nearly the disagreeable state they were the day she died ; and, with others, *would have compelled me to have left the place I have had the honor to hold the ensuing fall*. But I am now to communicate to your excellency, and I have taken the earliest occasion to do it, that I have been ad-

vised there is a matter under public consideration, so honorable and so interesting to my future prospects in life, that I cannot remain longer in the army. The matter alluded to could not take place while I held any military rank or station. I shall decline any further communication on the subject until I have the pleasure of seeing you, which I expect will be in the course of a few days, when I flatter myself I shall have your approbation; to doubt with respect to it, would be to offer violence to your excellency's friendship. My pay will, in adjusting and settling my accounts with the public, be only made up to the time I left camp; as, without service, I wish for no compensation."

From a letter of General Washington to Jonathan Trumbull, offering him the situation of secretary in the place of Colonel Harrison, resigned, under date of April 16, 1781, (Sparkes's Correspondence,) the following extract is made: "Colonel Harrison, who has acted as my secretary since the beginning of the year 1776, has accepted an honorable and profitable appointment in the State of Maryland, and is gone to enjoy it."

What that honorable and profitable appointment was, may be ascertained from the introduction to the 1st volume of Harris & McHenry's Maryland Reports, from which it appears that Robert H. Harrison was appointed chief justice of the general court of Maryland on the 10th of March, 1781, and that he held such office until the time of his death, in the early part of the year 1790.

It is but an act of justice to the memory of Judge Harrison, who was a man of high character and talent, and who knew well his rights under the resolutions of Congress, to say, that he never in his lifetime applied either for land or commutation. But it appears that his children have not been remiss in making their claims since his death. In February, 1814, a special act passed the General Assembly of Virginia, under which the children of Colonel Harrison (Sarah Easton and Dorothy Storer) received for his depreciation pay from January 1, 1777, to the 25th of March, 1781, the sum of \$8,973 10, which sum was included in and paid by the United States to Virginia in the appropriation contained in the first section of the act of July 5, 1832, for liquidating and paying certain claims of that State. (See Reports 1st session of 22d Congress, No. 191, page 62.) On the 3d of February, 1817, a land warrant was granted them for 6,000 acres for his service to the end of the war; and on the 21st of May, 1838, 2,008 acres more were granted for a service of over two years more than six. On what evidence or principle these allowances by Virginia have been made, has not appeared to the committee; though it seems that, as is usual, they have all been made at the expense of the United States.

*William Price.*

May 29, 1830, the commutation pay of a lieutenant was granted to William Price; and by act of the 2d March, 1833, interest on the same was allowed his heirs, he having in the mean time died—the whole amounting to \$4,830 30. The whole of the testimony in this case was by parol. Not a scrap of documentary evidence of any description was produced. The applicant stated that he first served as a sergeant in the 1st Virginia regiment, and was appointed a lieutenant in the spring of 1779; that he served to the close of the war, and was discharged at the Point of Forks in 1783. The testimony of several witnesses tended to confirm his state-

ment. Price also stated that his commission was stolen from him while in the service; but there was no testimony on that point. This committee can hardly conceive of parol testimony sufficiently strong to overthrow the negative evidence against the claim, arising from the absence of his name from all the lists of officers yet in existence and hereinbefore described. Price states in his petition that he recruited for Colonel Parker's regiment at Richmond, and that appears to have been the place of his subsequent residence. He received no depreciation pay as an officer from Virginia, though, from his alleged service as lieutenant from the spring of 1779, the depreciation due him could not have been less than seven hundred dollars. He received no final-settlement certificate from Mr. Dunscomb, who settled the accounts of the officers, and issued certificates for their pay and commutation. That an officer to whom such large sums were due should have resided in the town where payments were made, and where the sums might have been readily obtained, for several years in succession, without claiming them, seems absolutely incredible. And little less strange, upon the supposition of a service from the spring of 1779 till the autumn of 1783, are the additional facts, that his name should have been omitted in all the rolls of the regiment to which he belonged, made at the several arrangements in February, 1781, May, 1782, and January 1, 1783; and, also, that his name should not have been discovered by the Paymaster General in making out his list of officers entitled to specie pay in 1782 and 1783, or by the commissioner of army accounts in preparing the list of officers entitled to bounty land, nor found in the "officer's book." The claim to commutation could not have been well founded, and ought not to have been allowed.

The parol testimony in this case being unusually strong, it occurred to the committee that Price might possibly have been in service in some capacity during the period stated by the witnesses, and that they might merely have mistaken his rank. On looking at the list of non-commissioned officers and soldiers who received depreciation pay from Virginia for services in the continental line, the name of Sergeant William Price is found, as having received £29 10s. 6d. on the 24th April, 1783. The name of William Price is also found as a conductor of military stores, on a revolutionary leger in the office of the Third Auditor, though, from the circumstance of the journal to which the account refers being lost, it is impossible to ascertain the period or extent of his service. If in the spring of 1779, when Price states his term of service as sergeant to have expired, we suppose him to have been appointed conductor of military stores, instead of lieutenant, we shall at once be furnished with a key to unlock the mystery of the absence of his name as an officer from all the revolutionary records. As conductor of military stores, he held no rank whatever in the army, and was not entitled to either depreciation pay, bounty land, or commutation.

The land allowance to William Price, as might be expected, is of modern date. On the 13th of July, 1809, he was allowed a bounty of 2,666 acres for a service as lieutenant for three years. By October he was able to prove a service of seven years and eight months, and received an additional grant of 740 acres; and on the 12th of June, 1828, it was discovered he had served nine years and four months, and a third warrant issued to him of 739 acres more; making 4,145 acres in the whole—to not one acre of which was he entitled. If we suppose Price to have been discharged at the disbanding of the army, on the 3d of November, 1783, he must, from the foregoing al-

owance, have commenced his military career on the 3d of July, 1774, nearly ten months before the battle of Lexington.

*Captain Thomas Blackwell.*

On the 29th of May, 1830, an act passed granting five years' full pay to Captain Thomas Blackwell. Amount paid him \$2,400.

He became a supernumerary at the arrangement at White Plains, in September, 1778, as appears by that arrangement, and also by the arrangement at Middlebrook, in March following. His name is not found on any of the subsequent arrangements. His name is also on the "officer's book" in the Bounty Land Office, as a supernumerary of September, 1778; and it appears by a certificate of the auditor of Virginia, obtained by the select committee of the last session, that Captain Blackwell was settled with by Virginia on the 16th of May, 1783, and received his pay as captain to the 1st of November, 1778. By resolve of November 21, 1778, supernumerary officers of the arrangements of September, 1778, and March succeeding, were entitled to one year's extra pay of their commissions, which Captain Blackwell, on the 26th of February, 1793, claimed and received. This is entirely conclusive that his service ended at the time before stated, and that he could have no claim whatever to commutation.

If Captain Blackwell entered the service as early as November 1, 1775, (which may not be deemed very improbable,) he would be entitled to land from Virginia for three years' service. He was allowed 4,000 acres of land, for a service of three years, on the 30th of September, 1783; and, on the 6th of August, 1806, it being discovered that he had served eight years, instead of three, he received an additional allowance of 1,333 $\frac{1}{3}$  acres, making 5,333 $\frac{1}{3}$  acres in the whole.

*Lieutenant William Vawters, of Colonel Gibson's State regiment.*

The heirs of William Vawters, by act of May 25, 1832, were allowed the amount of five years' full pay of a lieutenant, with interest, amounting to \$4,821 45.

The report on which this act was founded (No. 44, 1st session 22d Congress,) states that Vawters belonged to Colonel George Gibson's regiment, which it alleges to have been transferred from the State line to the continental line, and to have thereby become a continental regiment. On the ground of its belonging to the continental line, Vawters was allowed the commutation pay.

After the passage of the act of July 5, 1832, granting half pay for life to the officers of the Virginia *State* line, the heirs of Vawters, finding that the half pay for life under that act would amount to a greater sum than they had received for commutation, applied for the half pay, (deducting the sum already received,) alleging that the commutation act had been passed under a mistake—that Gibson's, regiment was a *State*, and not a *continental* regiment. The claim for half pay being unfavorably received by the Secretary of the Treasury, the heirs of Vawters came again to Congress; and, on the 22d of December, 1837, the committee made a favorable report on the claim for the excess of the half pay over the commutation, in which they came to the conclusion, "that when the act of 25th May passed, allowing commutation to Vawters's heirs, *they had no claim whatever against the United*

*States*, either for commutation or half pay, but had a claim against the State of Virginia for half pay during the life of their father, which claim was afterwards assumed by the United States, by the act of the 5th of July, 1832;” Colonel Gibson’s regiment being a *State*, and not a *continental* regiment. In the opinion that Gibson’s was a *State*, and not a continental regiment, and, of consequence, that the heirs of Vawters had no claim to commutation, the present committee concur. At the October session of the Virginia Assembly, 1777, Colonel George Gibson’s *State* regiment, and another *State* regiment then forming, and afterwards commanded by Colonel Dabney, were transferred *temporarily* into continental service—the former in the place of the 9th Virginia regiment, made prisoners at Germantown; and the latter, in consequence of the deficiency of the *State*’s quota in the continental army. The officers and soldiers of both regiments were to have the same pay and emoluments “as are allowed to the officers and soldiers in the continental service, *so long as they continue therein.*” (9 Hen. 337, 338.) These regiments continued in continental service till the close of the campaign in 1779, about two years. (Judge Marshall’s letter, Report 191, 1st session 22d Congress, page 66.)

The service of these regiments in the continental army was but temporary, and they no more became incorporated into the continental line than did the numerous bodies of militia who, from time to time, from different States, joined that army, and while in service were paid by the continent. This is apparent from a great mass of facts, a few of which it will be sufficient to mention. They were called the 1st and 2d *State* regiments in all the returns made to the commander-in-chief, and such returns are numerous among the Washington Papers. The officers retained their *State* commissions, and were never commissioned by Congress. In the three arrangements of the continental line, which took place during the time those regiments remained in continental service, viz: in September, 1778, March, 1779, and September, 1779, they are not included or mentioned; and after their return from continental service, they were arranged and reduced as *State* regiments, in obedience to a law of the *State*, passed at the November session in 1781. This arrangement, made in the month of February, 1782, by a board of officers appointed by the Governor, may be found at length in report No. 191, 1st session 22d Congress, pages 46 to 58. And, further, in the settlements by Virginia, under the depreciation act of November, 1781, the officers of both these regiments were paid as *State* officers; their land bounties were also allowed them as *State*, and not as *continental* officers; and they uniformly claimed half pay as *State* officers, under the promises of Virginia; and never, till 1830, asked for commutation under those of the United States. The decision, therefore, said to have been made by the Secretary of War, in 1830, by which the benefit of the act of May, 1828, was extended to the officers of Colonel Gibson’s regiment, as continental officers, was without warrant in the history of the Virginia line to sustain it. This decision has since been repudiated by the passage of the act of July 5, 1832, which recognised the regiment as a *State* regiment, by assuming the payment of the half pay promised the officers by Virginia, as *State* officers.

Although it would seem there could now be no doubt of the true character of Colonel Gibson’s regiment, whatever might have been thought of it in 1830; yet, even since the act of July 5, 1832, it has sometimes been considered by the committee of the House as a continental regiment. In

fact, it has been suffered to assume a kind of amphibious character, sometimes being treated as a State, and sometimes as a continental regiment. Thus, on the same 22d of December, 1837, on which the bill allowing the heirs of Vawters the excess of the half pay for life over the commutation, on the ground that the regiment was a State regiment, was reported to the House, another bill was reported from the same committee, by another member of it, allowing to the heirs of Colonel Gibson the excess of his commutation over his half pay for life, on the ground that the regiment was *continental*, and not *State*; the half pay for life of Colonel Gibson, from the circumstance of his dying early, amounting to a less sum than his commutation. Both these bills were pending through the whole of the last Congress, but remained unacted on.

Lieutenant Vawters received a warrant for  $2,666\frac{2}{3}$  acres of land, as a lieutenant of the *State* line, on the 21st of January, 1783, and does not seem to have had any subsequent allowance.

*Major John Roberts, of the convention guards.*

May 25, 1832, an act passed granting commutation pay and interest to Major John Roberts, under which he has received from the Treasury \$9,040 23.

On the 11th of January, 1779, John Roberts was appointed a captain in a regiment raised by order of Virginia, and also of Congress, to guard the prisoners of Burgoyne's army which had been marched from the north to Charlottesville, in Albemarle county, Virginia; on the 5th of March, 1779, he was promoted to a majority in the same regiment, and served as major in the same until the 1st of May, 1781, as appears by a certificate from Auditor Heath, of Virginia, showing for what service he was paid by that State. It is alleged that he served until the regiment was disbanded, and never resigned or gave up his commission; and, supposing such to be the case, the question arises, whether he was entitled to commutation; or, in other words, whether the officers of that regiment were among those who could be entitled to the benefit of that provision?

On the 16th of October, 1778, Congress directed General Washington, in case certain terms were not complied with by Sir Henry Clinton, in relation to the prisoners captured at Saratoga, that he cause them to be removed to Charlottesville, in Albemarle county, Virginia; and the board of war were authorized to appoint a proper person to superintend them, and to apply to the Governor of Virginia for a sufficient force of militia to guard them. On the 19th of December, 1778, the General Assembly of Virginia passed a resolution empowering the Governor, with the advice of the Council, to raise "a regiment of soldiers of six hundred men, rank and file, with proper officers to command them, for the particular purpose of guarding the British prisoners then, or who thereafter might be, in the Commonwealth."

On the 9th of January, 1779, Congress came to the following resolutions, viz:

"Resolved, That a battalion consisting of six hundred men, properly officered, be forthwith raised on *continental establishment* in Virginia, for the space of one year from the time of their enlistment, unless sooner discharged, under the direction of the Governor and Council of that State, who are hereby empowered to appoint the officers of the said battalion out of those of the Virginia line who have been left out of the late arrangement of

the continental army, as far as their numbers will reach ; the regiment to consist of one lieutenant colonel commandant and captain, one major and captain, six captains, one captain-lieutenant, seven lieutenants, nine ensigns, one surgeon, one surgeon's mate, eight companies of seventy-five men each, including corporals, three sergeants, one drum, and one fife to each company.

"*Resolved*, That these troops be stationed at, and not removed (except to such distance as the duty of the post may require) from the barracks, in Albemarle county, as guards over the convention troops ; that they receive the usual pay of the continental army, and a suit of clothes as a bounty to each non-commissioned officer and private.

"*Resolved*, That, as soon as the said regiment shall be so far completed as to be able to do the duty of the post, the militia now in service there be discharged."

From the circumstance that these resolutions of Congress provide that this battalion should be "raised on continental establishment," it is argued that the officers of the battalion were necessarily entitled to half pay and the commutation of it. The committee do not perceive that this consequence follows. The word *establishment*, in a military sense, is not synonymous with the word *line*, but is much more comprehensive. The term *line of the army*, in its proper sense, and in that in which it is used in the commutation resolutions of 22d March, 1783, is applicable to that portion only of the army which is intended for field operations, or the exertion of physical force against an enemy. It is used in contradistinction to *the staff department*, the business of staff officers being, not to fight in the field, but to supply and superintend what are usually called the muniments of war, such as arms, clothing, subsistence, and whatever regards its health. The term *establishment* is much more comprehensive. When we speak of the military establishment, the peace establishment, or the war establishment, of a country or government, we evidently intend to embrace not merely the force employed in field operations, but also every other branch of the army which sustains and gives efficiency to warlike efforts. We have already seen, in the examination of the case of Colonel Harrison, that but a portion of the officers on continental establishment, viz: those only who belong to the *line of the army*, are entitled to commutation pay. It of consequence follows, that the putting of this regiment of guards on "continental establishment" does not necessarily entitle the officers to commutation. We must look for further evidence of their right to that provision.

The fact that the regiment was paid by the continent, affords no such evidence. State troops, and also militia, were uniformly in continental pay when they were attached, as was often the case, to the continental army, or were otherwise employed in the service of the continent. It was the business of the continent to guard the Saratoga prisoners ; and it is accordingly found, that when Governor Jefferson on an emergency ordered a battalion of infantry and a company of cavalry of State troops to Charlottesville, Congress immediately resolved (10th December, 1779) that they "be considered in continental service, and receive continental pay and rations, while doing duty at the convention barracks." It cannot be supposed that this temporary employment of State troops gave their officers any right to claim continental land bounties or half pay.

But the temporary character of the corps of guards, as well as the limited service they were to perform, shows clearly that they were never intended to belong to the line of the army, and could not have been included in the half-pay promises.

1. The battalion was to be raised for one year.
2. The officers to be appointed, not by Congress, but by the Governor of Virginia.

3. The regiment was not bound to military service generally, not even to repel an invasion of the State, but was "*to be stationed at and not removed* (except to such distance as the duty of the post might require) *from the barracks in Albemarle county*, as guards over the convention troops."

The report of the board of war, which contained the draught of the resolutions of 9th of January, 1779, and recommended their passage, (see papers of the old Congress in the State Department, No. 147, vol. 3,) is still more explicit, that this regiment was not intended to be incorporated into the continental line. After stating the great expense and other inconveniences attending the employment of militia as guards, and recommending the passage of the resolutions in the very words in which they were adopted, the report proceeds and concludes as follows: "The board are informed that this regiment might be very soon completed, if orders for that purpose were now issued, as the people of that country are apprehensive of a draught *to serve in the continental army*; to avoid which, they would enlist, on the condition of being stationed at the barracks, and not subject to be ordered to camp." As no distinction is made between the officers and men, in regard to the character of the service to be performed, the officers would, of course, be commissioned to serve in the *regiment of guards*, and not in the army generally. This would have been the case, had continental commissions been granted. But the commissions were not only thus limited to that particular service, but they were State, and not continental commissions. Since the present inquiry has been instituted, the original commission of Colonel Francis Taylor, the commander of the regiment, has been produced; and if that is to have any weight in determining the character of the officers of his corps, it would seem to settle the question that they did not belong to the continental line. The commission, which is dated March 5th, 1779, is signed by P. Henry, Governor of Virginia, and appoints him "*colonel of the regiment of volunteers for guarding the convention troops at Charlottesville*," enjoining him to obey all orders from the Executive of Virginia, agreeably to the regulations of the General Assembly, &c. (For copy of Colonel Taylor's commission, see appendix No. 14.)

The object of the half pay resolutions of 1780 was to offer an inducement to such officers as belonged to the line of the army, holding unlimited continental commissions as to time and service, to continue in the army to the end of the war; and to reward such of them as might be left out of command by the reduction of the army then about to take place. It would be an absurdity to apply these resolutions to a body of State officers, like those of the convention guards, appointed to a local and desirable service, and not bound to serve to the end of the war.

If it were still possible to doubt as to the rights of the officers of this corps, the contemporaneous construction ought to settle the question. The resolutions of October, 1780, as has before been mentioned, specify the regiments whose officers are promised half pay. Among them are, from Virginia, eight regiments of infantry, one of artillery, and two of cavalry. In February, 1781, the Virginia line, as we have before seen, was reduced to that number of regiments; and, in the arrangement making such reduction, neither the regiment of guards, nor a single officer belonging to it, is mentioned. None of these officers received bounty land or commutation pay of the United

States at the close of the war, or, so far as is known, applied for either. The officers of the regiment did not at that period consider themselves retiring or supernumerary officers, but as officers discharged from the service by the disbanding of the regiment. Of this there is abundant evidence. None of them received land, at that period, from Virginia, for services to the end of the war; which they would have been entitled to, had they been retiring or supernumerary officers, or applied for it as such officers. It will be remembered that the resolutions of Virginia which allowed land bounties for a service of three years required that it should be a continued, uninterrupted service. There were some officers who had, at two or more different periods, performed service, in the whole, for more than three years, though no single term of their service had been of that length. These officers applied to the Assembly of Virginia for the usual allowance of bounty to officers of their rank, and their applications were often successful. Among the applications were several from the officers of the guards. And there were, also, petitions from them for other allowances.

On the 28th of May, 1783, Francis Taylor, colonel of the regiment, presented a memorial to the House of Delegates, of which the following entry is found on the journal:

"A memorial of Francis Taylor, colonel of the late regiment of guards, on behalf of himself and the officers and soldiers of the said regiment, was presented to the House and read; setting forth that the said regiment was raised by a resolution of Assembly of the 19th of December, 1778, taken upon continental establishment by a resolution of Congress of the 9th of January, 1779, and disbanded in the month of June, 1781; and that said regiment never received any pay, but in depreciated paper money; and praying that the pay of the said regiment may be made good, in the same manner with that of other troops in the service of this State; also stating that the memorialist, from five years' service in the army, first as a major in the continental line, and then as colonel of the said regiment, conceives himself entitled to the half pay of a colonel, and praying that such half pay may be made good to him." On this petition it may be observed, that the claim to half pay is not made by Colonel Taylor as a retiring officer from the regiment of guards, but for a service of five years; the first part of which he states to have been in the continental line, and the latter part in the regiment of guards; clearly implying that, in his understanding, the latter service was not in the continental line. The said memorial was referred to a committee, which on the 5th of June made a favorable report on the application for the depreciation pay of the officers and soldiers of the regiment, and reported that such part of the memorial as prayed for half pay for life for himself be rejected: which report was accepted by the House, and resolutions to that effect were adopted. Colonel Taylor then, on the 17th of June, presented his petition for land bounty; which being referred, the committee on the 26th of June made report, with several resolutions, which report and resolutions were read three times and agreed to by the House, as follows:

"It appears to the committee that the said Francis Taylor was, in the year 1776, appointed a captain of a company in the 2d Virginia regiment; that he continued to act in that capacity until the year 1778, when he was appointed a major; and, by the arrangement at White Plains in the month of September in the said year, he became a supernumerary officer, being a junior major.

"It also appears that the said Francis Taylor was, on the 24th of December, in the said year 1778, appointed and commissioned a lieutenant colonel of the battalion of volunteers to guard the British prisoners; that, on the 5th of March following, he was appointed and commissioned colonel of the said regiment, *and continued in the service till the month of June, 1781, when the said regiment was disbanded.*

"*Resolved, in the opinion of this committee,* That the petition of the said Francis Taylor is reasonable.

"*Resolved, in the opinion of this committee,* That the said Francis Taylor ought to be allowed the same bounty in lands, as is given by law to a major in the continental line."

From these proceedings we learn that there was no pretence, at the close of the war, that the officers of the guards were retiring officers; and, from the fact that Colonel Taylor was allowed land only for the rank he held in the continental line, viz: that of major, it may be fairly inferred that service in the regiment of guards was not looked upon as a service entitled to peculiar favor.

The following resolution, which is copied from the journal of the House of Delegates of Virginia of 9th November, 1791, will show that up to that period the officers of the regiment of guards considered themselves, and were considered by the Legislature, as officers discharged from service by the disbanding of the regiment, and not as supernumerary or retiring officers:

"*Resolved,* That the petition of Samuel Overton Pettus, late lieutenant in the regiment of guards, setting forth that he enlisted in the 9th Virginia regiment on the 2d day of March, 1776, and continued to serve in the said regiment until the 4th of October, 1777, at which time he was taken prisoner at the battle of Germantown, and remained in captivity until the 18th of June, 1778, at which time he was released from confinement, and returned to this State for the recovery of his health; that, as soon as that was restored, he, on the 13th of January, 1779, was appointed an ensign in the said regiment of guards, and continued to serve as such until the 10th of June, 1781, *at which time the regiment was discharged;* that, although he has served *five years* in the army, from his services being performed in different regiments, he is precluded from receiving that quantity of land that has been granted to officers who have continued in uniform service for three years; and praying that the same quantity of land may be granted him that hath been granted to officers of the same rank, is reasonable."

It is thus seen that, down to the year 1791, the idea had not occurred that the officers of this regiment of guards were, in any sense, supernumerary officers, and, as such, entitled to either land or commutation. The discovery is of modern origin, and is at least entitled to the merit of ingenuity. It has been pursued to no little profit by the heirs of the officers of that regiment, or by speculators in their names, at least so far as the claims to land bounties are concerned. Thus, Major Roberts, who does not appear to have been in other service than that of the guards, on the 7th December, 1831, was allowed 5,333 acres of land as a major in the continental line. Francis Taylor, who, in 1783, claimed only to have served five years, and who received land as a major for three years' service by special act of the Legislature, on the 1st of October, 1800, obtained another warrant for 889 acres for a *seventh year's* service; and on the 12th of February, 1808, he ob-

tained another warrant for the same quantity for an eighth year's service ; and the commissioner of revolutionary claims of Virginia, on the 10th of December, 1835, reports his heirs entitled to an additional allowance of the difference between the rank of a major and that of a colonel, being about 1,800 acres more. James Burton, who quitted the service the 13th of December, 1780, about six months before the dissolution of the regiment, and who never performed a continued service of three years so as to entitle him to any land, on the 17th of March, 1831, was allowed over 4,700 acres for a service of seven years and one and a half month. Garland Burnley, who was discharged with the regiment in June, 1781, on the 26th of February, 1834, was allowed 4,000 acres of land, as the bounty of a captain, for a service to the end of the war. Lieutenant Colonel William Fontaine, who was disbanded with the regiment of guards in June, 1781, received, on the 25th of February, 1834, a warrant for 6,000 acres, for a service to the end of the war. On the 25th of February, 1834, Richard Paulett, on his claim of having been a supernumerary by the disbanding of the regiment of guards, was allowed 2,666 $\frac{2}{3}$  acres of land, as a lieutenant, for a service to the end of the war. The committee have not the means before them for making an examination into the allowance to the other officers of the regiment of guards ; but these may doubtless be taken as samples of the whole.

*Colonel George Baylor.*

By act of the 25th of May, 1832, the commutation pay of a colonel of cavalry was granted to Ann D. Baylor, representative of Colonel George Baylor ; and she has been paid from the Treasury, by virtue of the same, the sum of \$16,950 44.

Colonel Baylor's name is on the "officer's book" in the Bounty Land Office, returned as entitled to commutation pay ; and as it was alleged he died in the island of Barbadoes (whither he had gone for the recovery of his health) about the year 1784, the presumption was thought to be raised, that the claim for commutation had remained unpresented during his lifetime, by reason of his absence, and subsequently for the want of knowledge in his representatives of its existence. But this presumption (if, indeed, there were any) is rebutted and overthrown by a further examination of the claim.

Against the name of Colonel Baylor, on the "officer's book," is this entry : "Not settled with by Mr. Dunsecomb, to a/c ;" indicating, as might readily be supposed, that he was not paid his commutation because he was to account ("to a/c") for other matters, or, at least, that there were other matters for which he was to account on the settlement of his commutation. On examining the Treasury books of the Revolution, there is found an open unsettled account against Colonel Baylor, for sundry large advances made him, principally to enable him to mount and equip his regiment of cavalry, amounting to the sum of \$298,432 66, and against which there appear no credits. It was doubtless owing to this large balance that a final-settlement certificate was not issued to him at the close of the war. It cannot be presumed the committee would have reported in favor of the claim, had they known of the existence of this balance against him.

But there are other facts connected with the claims of Colonel Baylor's representative, which, as they serve to throw additional light on the transactions between him and the United States, and to show the liability of

Congress to error in the allowance of ancient claims, it is deemed not improper to state—

There have been three several modern acts passed by Congress for the relief of Ann D. Baylor, representative of Colonel Baylor, under which - has been paid her the sum of \$33,022 26, as follows:

Under act of May 20, 1826, (for pay as colonel)	-	\$1,192 77
Under act of May 29, 1830, (loan-office certificates)	-	14,879 05
Under act of May 25, 1832, (commutation)	-	16,950 44

As the basis of these acts, there were three several reports of committees of the House, in neither of which is the existence of the foregoing account against Colonel Baylor mentioned. The second act, that of May 29, 1830, was for the payment of loan-office certificates issued March 31, 1778, at the loan office in Virginia, as follows, viz:

6 certificates, numbered 3,358 to 3,363, for \$300 each;

14 certificates, numbered 3,366 to 3,379, for 300 each;

4 certificates, numbered 525 to 528, for 500 each;

which certificates, (reduced to specie value,) with the interest, made up the sum of \$14,879 05 before mentioned. These certificates, it was alleged, were lost, though no proof to that effect was produced; and it being certified from the Treasury that they appeared to be outstanding and unsatisfied, the committee reported in favor of their allowance.

Among the items of charge against Colonel Baylor, making up the before-mentioned sum of over \$290,000, is a charge for a warrant from the Treasury of the United States on William Armstead, commissioner of the loan office for the State of Virginia, of \$35,000. This charge is under date of March 11, 1778. On the loan office register of certificates issued by the commissioner for Virginia, under date of March 31, 1778, it appears that loan-office certificates were issued to Colonel Baylor as follows, viz:

6 certificates, numbered 252 to 257,	\$1,000 each	-	\$6,000
28 certificates, numbered 503 to 530,	500 each	-	14,000
50 certificates, numbered 3,357 to 3,406,	300 each	-	15,000
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Making the precise sum of - - - \$35,000

before mentioned. There can be no doubt but that these loan-office certificates are the proceeds of the warrant which twenty days previous had been drawn on the loan office by the Treasury, and that Colonel Baylor received them in lieu of the same. And when it is seen, by a comparison of dates and numbers, that the identical certificates for which the representative of Colonel Baylor has been paid by special act of Congress formed a part of the above \$35,000 standing charged to him on the books of the Treasury, unaccounted for, it will be readily perceived that their payment by the Government was an operation in financing much more profitable to Mrs. Baylor than just to the United States, or creditable to the vigilance and discernment of the agents of the Government concerned in their allowance. Instead of allowing the certificates said to be outstanding to be passed to the credit of Colonel Baylor; or, in other words, allowing them to cancel the charge against him of those very certificates; the money is permitted to be drawn for them, and the charge to remain unsettled. The

whole sum, then, of upwards of \$33,000 which has been drawn from the Treasury, has been paid, without any valid evidence that a dollar was due, and with every reasonable probability that Colonel Baylor was a debtor to the Government, instead of its creditor.

Colonel Baylor, having entered the service early, and continued in it to the end of the war, was entitled to land from Virginia, which he received in 1783 and 1784.

*Dr. William Carter.*

On the 25th of May, 1832, an act was passed granting commutation pay, with interest, to the representatives of Dr. William Carter, as surgeon in the revolutionary army. The sum paid was \$10,848 29.

The report of the committee, on which the act was founded, states the service of Dr. Carter to have been as surgeon in the continental hospital at Williamsburg, in Virginia, from July, 1776, until the close of the war.

That Dr. Carter did serve in said hospital as a surgeon, at some period of the Revolution, seems to be satisfactorily proved; but that he continued in the service to the end of the war, appears to be a matter of more doubt.

It appears, from the papers in the case of Dr. Carter, that he was a resident of Richmond, and died in that city about the year 1798. That he should have been a resident of the place where the commissioner of the United States kept his office for several years, in adjusting the accounts of the officers of the army, and should not have received his commutation pay, is calculated to throw a strong suspicion on the validity of the claim. On looking into the evidence by which his service to the end of the war is shown, it is found to consist of a single certificate, bearing date the 25th of October, 1791, and signed J. M. Galt, who appears to have been a field surgeon in the State service of Virginia, declaring that "Dr. William Carter was appointed surgeon to the continental hospital established at Williamsburg in July, 1776, and that, to his certain knowledge, he continued in service to the end of the war." No facts or circumstances of his service are stated, and no information is given from which it can be ascertained when, in the opinion of Dr. Galt, the war was ended, or to what date Dr. Carter served. The fact, also, that that certificate was given several years after the close of the war, is calculated to lessen the weight which might otherwise have been given to it.

From a certificate which the present committee have obtained from the auditor of Virginia, it appears that Dr. Carter, on the 2d of June, 1784, settled his accounts with the auditors of that State, under the act of November session, 1781, for his services as a surgeon of the continental hospital, and received his pay up to the 31st of July, 1781, and no longer. From this it would seem his service ended at that period, and that of course he could not have served to the end of the war, as certified by Dr. Galt. This supposition is confirmed, beyond dispute, by testimony furnished by Dr. Carter himself. On the 26th of May, 1784, Dr. Carter presented his petition to the House of Delegates of Virginia; on which the following proceedings, copied from the journal, were had, viz:

"A petition of William Carter was presented to the House, and read, setting forth that he acted as surgeon in the continental hospital, from the 1st of July, 1776, to the 31st of July, 1781, and that he has only received a

small part of his pay ; and praying that the depreciation of the same may be made good to him, and that he may also be allowed a bounty in land.

"A motion was made ; and the question being put, that the said petition be referred to the consideration of a committee, it passed in the negative.

"*Resolved*, That the petition be rejected."

From several facts and circumstances appearing in the case, this committee are inclined to the opinion that the rank and service of Dr. Carter were not such as would have given him a title to commutation, had he served to the end of the war ; but as it is very clear that he left the service too early to claim it, whatever his rank might have been, they have not thought it worth while to go into an examination of that question.

Notwithstanding the rejection of the claim of Dr. Carter to the land bounty by the Virginia House of Delegates, as before stated, he was on the 7th of February, 1792, on the beforementioned evidence of Dr. Galt, allowed 6,000 acres of land, for service as a surgeon of the hospital to the end of the war ; and on the 30th of April, 1807, he was allowed 1,116 acres more, for service of seven years and five months, without any further evidence of his continuance in service to the end of the war.

#### *Edmund Brooke, of Harrison's artillery.*

The five years' full pay of a lieutenant of artillery, with interest, was allowed to Edmund Brooke, by special act of March 25, 1832, under which he received \$6,026 62.

He states that he was appointed a lieutenant in Colonel Charles Harrison's regiment of artillery in *February*, 1781, and served in the same in Virginia until a few weeks before the siege of York, when he was compelled by sickness, contracted in the service, to leave the army until his health was restored ; that he had no intention whatever of resigning his commission, "but left camp by the advice of his commanding officer, Captain Coleman, with the most fixed determination to join the said regiment so soon as his health would permit; which the conclusion of the war, by the capitulation of Yorktown, rendered unnecessary." (See Rep. No. 19, 2d sess. 18th Cong., pages 1 and 15.) He, therefore, never afterwards joined the army. York was invested on the 30th of September, 1781 ; and as Brooke's service is stated to have commenced in the preceding February, his actual service could not have exceeded a period of eight months.

The statement of Brooke, so far as it respects his appointment and service in Colonel Harrison's regiment, in the spring and summer of 1781, was corroborated by the affidavits of three or four witnesses, some of whom were officers of that regiment ; and it appeared that, on the 19th of February, 1784, Brooke had been allowed a land bounty by Virginia, as lieutenant, for a service to the end of the war ; and that, on the 3d of March succeeding, he had been paid by the State of Virginia for his services as lieutenant, from February 1, 1781, to the 31st of December following.

In 1784 or 1785, Lieutenant Brooke presented his claim for commutation to Mr. Dunscomb, the commissioner who settled the accounts of the officers of the army in Virginia, by whom it was disallowed. He does not appear to have renewed his application on the opening of the act of limitation for one year, under the resolution of July, 1787, nor under that for two years, by the act of March, 1792 ; but, from 1802, he prosecuted it before Congress, from time to time, against some six or eight successive unfavorable

reports of committees, until the year 1830, when it received the favorable decision of Congress, as before stated.

The claimant stated that he was *appointed* a lieutenant in Colonel Harrison's artillery, but he did not state by whom, by what authority, or in what manner. He did not produce his commission, or account for its non-production. It is not asserted that he had a commission, except by indirection, "that he had no intention of resigning" it. His name is not on the arrangement of the officers of Colonel Harrison's regiment, made at Winchester on the 1st of January, 1783, nor on any other arrangement or roll of the regiment now to be found. It is not on the list of officers entitled to three months' pay in 1782, and four months' pay in 1783; nor is it found on the officer's book. And the force which might otherwise have been given to Lieutenant Brooke's early land allowance, for a service to the end of the war, is very much weakened by the fact now ascertained, that it was made on the evidence of his own single affidavit.

The allowance of commutation was refused by Mr. Dunscomb, the commissioner for Virginia in 1784 or 1785, because, as he certifies, Edmund Brooke's name did not appear in the official return made to him by the paymaster of the regiment commanded by Colonel Charles Harrison. "This list," says Mr. Dunscomb, "was the evidence by which the accounts of that regiment were settled, the same being founded upon the last musters that were made, *and the best information that could then be had on the subject.*" (See Rep. No. 19, 2d sess. 18th Cong., page 17.)

It would seem there could not, at that time, have been any serious difficulty in Lieutenant Brooke's proving the necessary facts to entitle him to commutation, had they existed; and the fact of his acquiescence in the decision of the commissioner, without renewing his claim until 1802, when he states the officers under whom he served to have been dead, and that, therefore, he was unable to obtain their testimony, goes strongly to confirm the propriety of the decision of Mr. Dunscomb; which decision appears, by his certificate, to have been very properly founded upon "the best information which could then be had on the subject."

A consideration of the condition of Colonel Harrison's regiment in 1781 may, perhaps, furnish a key to the facts in Lieutenant Brooke's case. It appears, from the evidence presented by Lieutenant Brooke, that, in the autumn of 1780, there was so great a deficiency of rank and file in Colonel Harrison's regiment, that they had been consolidated into two companies, and marched to the south to join General Greene; that a considerable portion of the officers had been left in Virginia, without command; and that, on the invasion of the State, in the winter or spring of 1781, the other companies of the regiment, or a portion of them, had been filled up by draughts from the militia. Now, with this superabundance of officers, it seems highly improbable that the number would have been increased by granting new commissions; but the designation of an individual of the militia, by the commander of a corps, to perform temporary duty in a particular station which might happen for the time being to be vacant, might very well be expected. If the appointment of Lieutenant Brooke were of this character, it may account for the fact that no commission is produced or described, and for his name not appearing on the rolls of the regiment; and yet, the fact of his acting as lieutenant in the same corps with officers of Harrison's regiment, may have enabled him to obtain his allowance from Virginia,

though, in reality, he might have had no actual appointment as an officer in the continental line.

On the whole, considering that the service of Lieutenant Brooke was but for the term of eight months, at most; that, for such service, he had received his full pay for eleven months, and also 2,666 acres of land; and that, upon his own showing, he was not *actually*, but only *constructively*, in service to the end of the war; and considering also the weakness and uncertainty of the testimony by which his claim is supported, it is respectfully submitted that his claim was not of that clearly meritorious and pressing character which, at this late period, demanded the special interposition of Congress.

*Colonel John Thornton.*

On the 9th of February, 1833, an act was passed, granting to the representative of John Thornton the commutation pay and interest of a colonel of infantry of the revolutionary army. The sum paid was \$13,594 82.

The report states that John Thornton was appointed captain in the 3d Virginia regiment in February, 1776; promoted to the rank of major the 20th of March, 1777, in one of the new regiments; and, in the same year, promoted to the rank of lieutenant colonel; was in actual service more than three years, and never resigned; that he made exertions to raise the new regiment until the summer of 1778, "after which he was not called into service, but was ready to perform service when required; and that, in 1781, during the invasion of Virginia, he had the command of a regiment of militia, as a continental officer, by order of General Lafayette." Of all which there is some parol, but no documentary proof; it being stated that his commissions, and other papers, had been mislaid or lost.

This statement, on its face, is improbable in the highest degree. It is believed there could have been no such case as an officer in the Virginia line, and especially one of the rank of lieutenant colonel, who continued to hold his commission from the summer of 1778 to the close of the war, or even until the year 1781, without being called into actual service. If he had retired in 1778, for want of command, as he alleges, he would have been a supernumerary of that year, and not entitled to commutation; if he had continued in the army, he would have been called upon to perform service. He must, therefore, have left the service, either by death or resignation, before the arrangement of September, 1778.

The documentary evidence is conclusive against his claim. His name is not found on the arrangement of September, 1778; or on either of the five succeeding arrangements of the Virginia line; or on the "officer's book," in the Bounty Land Office; or on the list of officers entitled to specie pay in 1782 and 1783. Nor did he receive any depreciation pay from Virginia, which renders it almost certain that he could have performed very little service after the 1st of January, 1777; for it is not to be presumed he would have omitted to demand his depreciation pay, had any considerable sum been due him. But there is documentary evidence of his resignation. Among the documents furnished from the auditor's office at Richmond, to the Commissioner of Pensions, is the copy of "a roll of the resigned and supernumerary officers of the Virginia continental and State troops;" on which is found the name of John Thornton, as a captain, appointed February 12, 1776, and afterwards "*resigned*."

His allowance of land, as might be expected in a case so decidedly bad, is of modern date. A warrant for 6,000 acres, being the quantity due an officer of the rank of lieutenant colonel, was issued to him on the 24th of April, 1833, for a service of three years. His term of service could not have exceeded two years—probably it was less than one. And yet, in 1835 he is reported by John H. Smith, the Virginia commissioner of revolutionary claims, as entitled to an additional allowance for a service of over six years; a warrant for which yet remains to be issued. In this, as in most other cases of modern grants of land warrants, the documentary evidence at Richmond seems either to have been overlooked, or wholly disregarded by the authorities of Virginia.

*Captain Thomas Triplett.*

In 1831, a Thomas Triplett (or a person calling himself by that name) of Bath county, Kentucky, made his declaration for the benefit of the act of May 15, 1828, and filed evidence in the Treasury Department, showing that he was a captain in the continental army of the Revolution, of the Virginia line, and had served as such to the end of the war. In the month of October, 1831, he was admitted to the benefit of that act, and he received under it \$3,354 66. In October, 1831, on filing in the proper office a certificate of the Secretary of the Treasury of his admission to the benefit of the act of 1828, a bounty-land warrant of 300 acres was obtained for him from the United States; and on the 2d of March, 1833, an act was passed granting him commutation pay, with interest; under which was paid the sum of \$7,245 45, making the whole sum drawn from the Treasury (reckoning the bounty-land scrip at \$1 25 per acre) \$10,975 11.

After these payments had been made, it was discovered that the Thomas Triplett who had been a captain in the continental army had died in Virginia many years before, and that the testimony on which all the allowances had been obtained was false and fraudulent, having been manufactured by another Thomas Triplett, a relative (perhaps a son) of the individual who had been made to personate the continental officer. For the getting up of this testimony, the last mentioned Thomas Triplett was indicted in the United States district court of Kentucky for forgery and subornation of perjury; and about the year 1835, being convicted, he was sentenced to imprisonment, and afterwards died in jail.

At the second session of the last Congress, the petition of a Thomas Triplett of Virginia was presented to the House of Representatives, claiming, in behalf of himself and his sisters, to be the *true* heirs of the *real* Thomas Triplett of the continental army, and asking Congress to pass an act allowing them the commutation and interest which had been fraudulently obtained by the *false* Thomas Triplett, the younger, of Kentucky. The committee to whom the petition was referred, taking it for granted that Thomas Triplett, the elder, of Virginia, was entitled to commutation, and being satisfied that the petitioners were the true heirs, reported a bill for the payment to them of the said sum of \$7,245 45. The bill was engrossed and read a third time in the House, but, being opposed in its passage, it was on the 8th of June, 1838, postponed to a future day. The committee then addressed a letter to the Third Auditor, inquiring after the service of Captain Thomas Triplett in the revolutionary army, and received for answer that

it appeared from muster-rolls in his office that Captain Thomas Triplett resigned his commission on the 29th of April, 1778.

It ought, perhaps, to be mentioned as another remarkable feature of this case, that the certificate of the county court, by which the heirship of the Virginia Triplets was proved, on their application for a second payment of the commutation, shows that Captain Triplett died in the year 1780; thns upon its face precluding him and his heirs from all claim to commutation pay.

There was but one Captain Thomas Triplett who at any time belonged to the continental line; and as he left the service, by resignation, on the 29th of April, 1778, he could not possibly be entitled to bounty land from Virginia, for a service of three years, no forces having been in service as early as that date in 1775. Nevertheless, on the 14th of October, 1817, a land warrant for 4,666 acres issued for the services of Captain Triplett, for seven years. There is this consolation about the land warrant, that, though the claim to it was wholly unfounded, there is some degree of probability that it issued to the *true heirs!*

#### *Captain John Thomas.*

On the 2d of March, 1833, an act passed granting commutation pay and interest to Captain John Thomas, of the Virginia line; on which has been paid \$7,245 45. There was no evidence before the committee that reported the bill, except the certificate of the Secretary of the Treasury that Captain Thomas had been admitted to the benefit of the act of May 15, 1828. There was no evidence before the Secretary of the Treasury, but that of the very weakest character. There was nothing in the office of the Third Auditor to show that Thomas was ever a continental officer; nor is his name found on any of the arrangements on the officer's book, or on the list of officers entitled to specie pay in 1782 and 1783. The only documentary evidence which can be found of his services, and which was obtained by the select committee of the last session, is the certificate of the auditor of Virginia that John Thomas was paid by that State on the 30th of April, 1785, for a service as captain of six months and three days, from the 28th of January, 1779, to August 1st of the same year. This service was in the convention guards; which accounts for the fact of his name not appearing on the arrangement of March, 1779, which it ought to have done if he had served in the continental line from January to August of that year. Although his service expired at so early a day, he was, nevertheless, on the 3d of November, 1830, allowed 4,000 acres of land by Virginia, for a service to the end of the war; and in 1835 John H. Smith reports him entitled to an additional allowance for over six years' service, a warrant for which yet remains to be issued.

#### *Lieutenant Peter Foster.*

Included in the same act of March 2, 1833, which allowed commutation to John Thomas, was a grant of commutation with interest to Peter Foster, as a lieutenant of the Virginia continental line. The sum paid him was \$4,830 31.

On looking into the papers on which his claim was made, he is stated to have belonged to Colonel George Gibson's regiment, which, in our exami-

nation of the claim of William Vawters, we have shown to have been a *State*, and not a *continental* regiment. Of course, the claim on the United States was wholly unfounded. But Foster did not serve as lieutenant to the end of the war in any corps, if, indeed, he was an officer at any period of the war. He received no depreciation pay of Virginia, either as a continental or State officer; nor is his name on any of the arrangements or other lists of officers of the continental line, or on the arrangement of Colonel Gibson's regiment, which took place in April, 1782, by order of the Executive of Virginia; where it would be found if he had then been in service, or had previously retired as a supernumerary officer. The service of Foster was shown, by parol evidence of the weakest character; and on such evidence he was, on the 22d of May, 1832, allowed a land bounty of 2,666 acres, for a service to the end of the war.

#### *Captain Thomas Minor.*

On the 30th of June, 1834, the commutation pay of a captain of infantry was granted, by special act, to Thomas Minor. The sum paid was \$2,400.

The history of Captain Minor's claims is somewhat peculiar; but as it more properly belongs to that branch of the subject of the inquiries of the committee which relates to the Virginia half-pay claims under the act of July 2, 1832, it will be omitted in this report. It is sufficient now to say, that Captain Minor belonged neither to the continental line nor to Colonel Gibson's State regiment, and that there is now no pretence whatever that he had any claim against the United States for commutation. All the services he performed were in the State line and militia, and the discovery of those appears to be of recent origin. His claim against Virginia for land slept until the 15th of June, 1830, when he was allowed 5,333 acres, for eight years' service in the continental line.

#### *Captain James Craine.*

On the 30th of June, 1834, an act was passed, granting commutation pay to the heirs of Captain James Craine, under which they have received from the Treasury \$2,400.

It appears, from the report of the committee on which the act was founded, that they had before them a certificate of the auditor of Virginia, showing that Captain Craine had been paid for his services up to December 31, 1781; had received bounty land from Virginia for eight years and three months' service during the Revolution; and that his heirs had also obtained bounty land from the United States. And, says the report, "one witness states, with certainty, that he was in the service at the siege of Yorktown; and another, that, to the best of his recollection, he continued in the service during the war, *and he is certain he never resigned.*" This witness was, nevertheless, mistaken. Captain Craine did resign, after the arrangement at Chesterfield, in February, 1781, and before that at Cumberland, in May, 1782; on the former of which his name appears, while it is omitted on the latter. Against his name, on the Chesterfield arrangement, the entry "resigned" is found; and his name is also found on the Cumberland list of resignations, of September 2, 1782.

As Captain Craine was an officer in the continental line for more than three years, he was entitled to land bounty from Virginia for a service of

three years, which he received, by an allowance to him of 4,000 acres, on the 10th of December, 1783. On the 12th of August, 1808, the authorities of Virginia leaped over the fact of his resignation, and made him an additional allowance of 1,500 acres, being for a service of eight years and three months. Supposing his service to have ended in May, 1782, when he resigned, it must, according to this allowance, have commenced about fourteen months before the battle of Lexington.

*Lieutenant John Taylor.*

May 30, 1834, an act passed granting the five years' full pay of a lieutenant to the representative of John Taylor, under which has been paid the sum of \$1,600.

He was a lieutenant in the convention guards, and served from the 18th of January, 1779, to the 15th of June, 1781, when the regiment was disbanded. The officers of this regiment, as has been shown in the case of Major John Roberts, were not entitled to commutation. Of course, the claim of Lieutenant Taylor was unfounded.

Since it has been discovered that, by the disbanding of this regiment, the officers became supernumerary to the end of the war, instead of being discharged, as during the simplicity of the revolutionary period had been supposed, an allowance of bounty land for a service to the end of the war has been made to the representatives of Lieutenant Taylor. A warrant issued on the 13th of November, 1832, for 2,666 acres, for a service to the end of the war; and John H. Smith, in his report of December, 1835, thinks he may be entitled to an additional allowance for a service of over six years.

*Captain Everard Meade.*

On the 30th of June, 1834, an act passed granting the representatives of Everard Meade the five years' full pay of a captain of infantry, under which the sum paid was \$2,400.

It appears by a roll of the officers of the several Virginia regiments at their first organization, attached to the arrangement made at White Plains, that Everard Meade was commissioned a captain in the second regiment on the 8th of March, 1776; and by "a roll of the resigned and supernumerary officers of the Virginia continental and State line," found in the Pension Office, furnished from the auditor's office at Richmond, it appears he "resigned" his commission in that regiment. The date of the resignation does not appear, but it was probably early in the year 1777. It was before September, 1778, as his name does not appear among the officers of the second or any other regiment, on that arrangement, or on any of the subsequent arrangements. It was supposed by the committee who reported the bill, that he became a supernumerary at this period, instead of resigning; but that would not affect his right to commutation, as supernumeraries before October, 1780, were not entitled to the benefit of that provision. On leaving the line of the army, as before stated, he was appointed an aid-de-camp to Major General Benjamin Lincoln, with the rank of major, in which capacity he served, as appears by a certificate from Auditor Heath, from the 1st of June, 1777, to the 1st of May, 1780; but he does not appear to have been in continental service afterwards. He is said to have been in the State and militia service after this period; but as such service could not affect his

right to commutation, all the evidence in relation to it may be laid out of the case.

As Major Meade does not appear to have been in continental service of any kind after May, 1780, he could not of course have served therein to the end of the war, or have become a supernumerary under the resolution of the succeeding October of that year. It may be observed, that the service of Major Meade as aid de-camp to General Lincoln, though it gave him the rank of major, and entitled him to the monthly pay of one, would not, as we have seen in the case of Lieutenant Colonel Robert H. Harrison, entitle him to commutation pay—he being a staff officer, and the commutation resolutions including only officers of the line. This claim, then, is wholly without foundation.

On the 17th of January, 1838, the Committee on Revolutionary Claims reported a bill allowing the representatives of Meade interest on his commutation pay, according to the principles of the funding acts, which would have increased the draft on the Treasury from \$2,400 to over \$7,200. This bill remained unacted on. At the same session of the last Congress, the Senate passed a bill increasing the commutation pay of Meade from that of captain to a major; which bill also received the favorable action of the committee of the House, but did not pass that body.

#### *Cornet William Teas.*

June 30, 1834, the commutation pay of a cornet of cavalry was granted by special act to the heirs of William Teas, under which they received \$1,600.

The evidence in this case was wholly by parol, and consisted of the affidavits of two privates, who say they knew Teas in service, in Washington's corps of cavalry, in 1781; and one of them says he did duty as a cornet in that corps. No commission is produced, nor is the existence of one mentioned. Teas died in 1824 without having made any claim for land of Virginia, or for commutation of the United States, or to a pension under the act of 1818. His name is not found on any roll in the War Department, as an officer, nor did he ever receive any depreciation pay from Virginia. The committee think it impossible he could have been a cornet in the continental line, and served to the end of the war, without leaving some trace of his service, of a documentary character. They are very clear that the evidence in support of the claim is wholly insufficient. On the 17th of December, 1832, the heirs of Teas were allowed 2,666 acres of land by the Executive of Virginia, for a three years' service, proved by the same testimony which sustained his claim to commutation.

#### *Captain Buller Claiborne.*

The commutation pay of a captain was granted the legal representatives of Buller Claiborne by act of June 30, 1834.

The name of Buller Claiborne is not found on any of the arrangements of the Virginia line, on the list of officers entitled to specie pay in 1782 and 1783, nor on "the officer's book." On the 4th of April, 1786, he settled his depreciation pay with the auditors of Virginia, and received a certificate for a service as captain, ending the 27th of July, 1777, at which time his service in the line of the army must have ended, doubtless, by re-

signation. On looking over the report on which the bill was founded, it appears that the service for which he claims commutation for a service to the end of the war, was, either that of aid to General Lincoln, or as a brigade major; for neither of which would he be entitled to commutation. Both these were staff offices, which, as we have already seen in the case of Colonel R. H. Harrison, give no right in the holders to the benefit of that provision. Captain Claiborne did not receive land from Virginia in his lifetime, but, on the 14th of February, 1807, *his heirs* obtained an allowance of 5,333 acres for a service of eight years.

*Lieutenant John Emerson.*

On the 30th of June, 1834, the commutation of a lieutenant was granted to John Emerson, by special act of Congress, under which he received \$1,600.

John Emerson claimed to have been an officer in the thirteenth Virginia regiment, and to have served therein as a captain to the end of the war. One witness testified to his service to the end of the war. The following is copied from the letter of Mr. Hagner, the Third Auditor, to the chairman of the committee who reported the bill, dated 17th December, 1833: "John Emerson appears to have been a first lieutenant in the thirteenth Virginia regiment, up to April, 1778; after which time his name is not found on any rolls of that regiment, or any other record in this office." His name is not found on any of the arrangements of the Virginia line, nor on the list of officers entitled to specie pay in 1782 and 1783, nor on "the officer's book;" nor does he appear to have received any certificate for his depreciation pay from Virginia. The witness who testified to his service to the end of the war must have been mistaken. It is utterly incredible he could have thus served, and no trace of his name be found on any of the revolutionary records we have mentioned. It is worthy of remark, that Emerson, in his declaration for a pension under the act of 1828, made before he applied for commutation, testified, that after the close of the war he received a commutation certificate in satisfaction of his claim for five years' full pay; which fact thus stated, is, probably, just as true as the other important fact stated in connexion with it—that he became entitled to such certificate by a service to the end of the war.

He received no land warrant from Virginia until the 16th of June, 1820, when a warrant issued to him for 2,666 acres, for a service to the end of the war; and on the 9th May, 1834, an additional allowance of 766 acres, for a service of over six years, was made; and in December, 1835, John H. Smith reports him entitled to a further additional allowance for a still longer service.

On the 13th of May, 1833, the Committee on Revolutionary Claims of the House of Representatives reported a bill, allowing the representatives of Lieutenant Emerson interest, according to the principles of the funding acts, on his commutation pay; which bill remained unacted on at the close of the session. The interest is rather more than double the amount of the principal.

*Lieutenant Thomas Wallace.*

June 30, 1834, an act was passed granting the commutation of five years' full pay as a lieutenant, to the heirs of Thomas Wallace, and there was paid them the sum of \$1,600.

The evidence before the committee appears to have been his commission in the 8th Virginia regiment, dated the 23d of November, 1779; and it appearing by an original letter from the colonel of his regiment, dated the 19th of November, 1781, that he was under marching orders to join the southern army, and that he had received land bounty from Virginia for a service of three years, the committee concluded he had served to the end of the war, or become supernumerary; and therefore reported the bill.

The name of Thomas Wallace is found on the Chesterfield arrangement, as an ensign, and afterwards as lieutenant, in the 8th regiment; but his name is not among the officers belonging to the line, in either of the subsequent arrangements. But, in the arrangement made at Cumberland court-house, in May, 1782, against the name of Lieutenant Thomas Sears, under the head of "remarks," is this entry, "Wallace's resignation;" indicating that Lieutenant Sears had been appointed to fill the vacancy occasioned by the resignation of Wallace. The name of Lieutenant Thomas Wallace is also found on the list of officers *resigned*, made at Cumberland court-house, September 2, 1782. The date of the commission of Thomas Wallace, as ensign, appearing by the Chesterfield arrangement to be the 2d of June, 1779, that may be taken as the time of his entering the service; and it appearing from the Cumberland arrangement that his vacancy was filled by the appointment of Lieutenant Sears on the 5th day of May, 1782, that may be considered as the date of his resignation. Having been in service less than three years, he would not be entitled to land from Virginia, and does not appear to have received it until the 22d of October, 1790, when a warrant issued to him for a service of three years.

It may be mentioned, as showing the harmony of the several ancient records with each other, as well as a confirmation of their general accuracy, that the name of Lieutenant Wallace, who has been shown by the Cumberland arrangement to have left the service, by resignation, on the 5th of May, 1782, is found on the list of officers to whom the three months' specie pay was due in 1782, and the four months' in 1783, as entitled to the pay in 1782, but as not entitled to that in 1783.

#### *Captain William Royal.*

An act passed granting the five years' full pay of a captain to the heirs of William Royal, on the 30th of June, 1834; under which, \$2,400 has been paid from the Treasury.

The testimony in this case was wholly parol. One witness says, that William Royal was a captain in the 2d Virginia regiment (continental line) in 1776, "and he believes most of the war—perhaps the whole war; but of this he is not certain." Another witness says that William Royal was "a captain in the revolutionary army of the United States in service about 1777 or 1778, [what line not mentioned,] and that he continued in service until the end of the war." And another, that Captain Royal, about 1781, was appointed captain of a volunteer troop of horse, with which he joined the army during the invasion of Virginia. On this testimony it may be observed, that the service mentioned by the last witness was evidently in the militia; and that, for aught that is said by the second witness, the service he mentions might also have been in the militia. Only the first witness positively places Captain Royal in the continental line, and he only during the year 1776. This testimony, uncorroborated by other circum-

stances, is clearly insufficient to establish a claim to a large amount, and which, had it been due, might easily have been obtained fifty years before.

But the negative evidence against the claim seems entirely conclusive. The name of Captain Royal is not found on either of the six arrangements of the Virginia line, made at different periods during the war, and purporting to give a list of all the officers; nor on the list of officers to whom specie pay was due in 1782 and 1783; nor on "the officer's book." Nor did he receive any depreciation pay from Virginia, under the act of November session, 1781; although, if he served in the continental line from 1776 to the close of the war, as he is claimed to have done, he would have been entitled to that pay for five years, amounting to not less than nineteen hundred or two thousand dollars. This, if it had been due him, he could easily have obtained; and when it is considered that he omitted to claim it, and also his commutation pay, at the close of the war, and that his name is not found as an officer on any revolutionary documents, either at Richmond or Washington, the conclusion seems irresistible that he could not have been an officer serving to the close of the war in the continental line. Nevertheless, his heirs not only received his commutation pay by the special act before mentioned, but, on the 21st of January, 1815, there was allowed them, by Virginia, the quantity of 4,889 acres of land for a service of seven years and four months.

#### *Lieutenant Robert Jouett.*

On the 29th of May, 1836, an act was passed granting commutation pay to the representative of Lieutenant Robert Jouett, of the Virginia line, and the amount (\$1,600) has been paid from the Treasury.

The bill originated in the Senate, and the report states it to have been clearly proved that Jouett was a lieutenant of the Virginia line; that he served long and well, and became supernumerary when the southern army was discharged near Charleston, in May, 1782.

It further appeared that, in 1792, Jouett made a settlement with the accountant of the War Department, and received his pay as lieutenant up to the 10th of May, 1782, without claiming commutation. Notwithstanding the irresistible presumption against the claim, arising from this fact, the committee deemed the presumption against his having resigned as still stronger, and reported the bill which became a law, as before stated.

The name of Robert Jouett is found as an ensign on the arrangement of September, 1778, and as a lieutenant on those of March, 1779, and February, 1781; but it is not found on the succeeding arrangements of May, 1782, or of January, 1783. It is found, however, on the Cumberland list of resignations of the 2d of September, 1782; and he doubtless resigned on the 10th of May, 1782, the day to which he claimed and received payment for his services.

Robert Jouett, having been in service more than three years, was entitled to bounty land from Virginia; which he received on the 2d of March, 1784.

#### *Ensign Thornton Taylor.*

July 2, 1836, an act passed granting commutation pay to the representatives of Ensign Thornton Taylor. Amount paid under the act, \$1,200.

There was parol evidence that Taylor was an officer of the Virginia line, and served to the end of the war. There is found on file a certificate of

the auditor of Virginia, showing that on the 19th of May, 1783, Thornton Taylor was paid by Virginia for his services as follows, viz: "For his pay as ensign, from the 15th of May, 1777, to the 23rd of November following; for his pay as lieutenant, from the 28th of November, 1777, to the 12th of September, 1778; for his pay as conductor of military stores, from the 10th of April, 1779, to the 15th of April, 1780." His services, therefore, as an officer of the line, ended the 12th of September, 1778. At the arrangement at White Plains, begun on the 11th of September, 1778, Lieutenant Thornton Taylor is entered as a supernumerary, and to his name is appended a note, as follows: "A sickly youth, not of sufficient constitution to support the fatigues of an officer." Lieutenant Taylor is also among the supernumerary officers in the arrangement as confirmed at Middlebrook in March following, but his name is not found on any of the subsequent arrangements. On the 29th of May, 1784, Thornton Taylor petitioned the Virginia Assembly for bounty land; in which petition, as appears by the journal of the House of Delegates, he states his services as follows, viz: "That, in May, 1777, he was appointed an ensign in the 3d Virginia regiment, and continued in service until an arrangement took place in the army in the year 1778, by which he became a supernumerary; that he has acted in the capacity of a conductor of military stores, and as a deputy field commissary general of the same, until the surrender of Charleston," May 12, 1780. The only service which he performed, that was of such a character as would have entitled him to commutation, provided it had been continued to the end of the war, was that in the line of the army, ending in September, 1778. But his service in the staff ended in May, 1780, several months before the passage of the half-pay resolutions; and there is not even a pretence that he could be entitled to commutation. He was not entitled to bounty land from Virginia, by virtue of the general resolutions of that State, but he was allowed land by special resolution of the House of Delegates, at the May session, 1784, in answer to the petition before mentioned.

*Ensign John Spilfathom.*

On the 12th of June, 1838, a bill became a law, granting to John Spilfathom the commutation of five years' full pay of an ensign—\$1,200.

The bill originated in the Senate, and the material part of the report is as follows, viz:

"That the memorialist was early and long in the military service of his country, and that he was promoted to an ensigncy on or about the 17th of December, 1780, is very satisfactorily proved; and as to the question whether he served till the end of the war, the evidence stands thus: It appears from a certificate of the auditor of public accounts in Virginia, that the memorialist's account for pay was settled in June, 1784, and that he received a certificate for his pay, for services as an ensign, from the 17th December, 1780, to the 12th of May, 1781, and no longer; and the memorialist avers, and verifies the averment by his oath, that he served to the end of the war. The inference from the certificate of the auditor of Virginia is, that the memorialist did not remain in actual service in the field longer than until May, 1781; but it does not follow that he resigned his commission, since he might have retired, as many other officers are known to have done, as a supernumerary; and as he could have had little or no motive to resign, and there is no evidence that he did so, his own affidavit that he served

to the end of the war is regarded as sufficient evidence that he continued to hold his commission, ready to serve if required, though he was a super-numerary."

Notwithstanding this beautiful theory of the Senate's committee, and in spite of the "little or no motive" he had to do so, John Spifathom did have the hardihood to resign at the time to which he received his pay, as now very satisfactorily appears. The name of John Spifathom, as an ensign commissioned December 17, 1780, appears on the arrangement made at Chesterfield in February, 1781, but does not appear on any subsequent arrangement or list of officers now to be found, except on a list of resigned and superseded officers, made at Cumberland court-house September 2, 1782, on which is found the name of Ensign John Spifathom as having resigned at some time between that date and the 18th of February, 1781. That he resigned on the 12th May, 1781, the day to which he received his pay, cannot well be doubted.

John Spifathom did not receive land from Virginia at an early day, but on the 6th of July, 1809, a warrant issued to him for 2,666 acres, for a service of three years; and on the 14th of December following, another warrant issued for 518 acres more, for an additional service of fourteen months; making seven years and two months' service in the whole. He must, of course, have entered the continental army on the 12th of March, 1774.

#### *Captain Daniel Duval.*

On the 13th of June, 1838, an act passed allowing to the representative of Daniel Duval the five years' full pay of a captain of sappers and miners of the continental army of the Revolution; under which act the payment from the Treasury was \$3,000.

There is no doubt that Daniel Duval was a captain in the corps of sappers and miners, which corps, by resolution of November 14, 1780, was put on the same footing as the line of the army; and the only question is, whether he served to the end of the war. A final-settlement certificate was issued to him in March, 1784, for the balance due him for his pay in that corps, for the sum of \$16 68, bearing interest from August 1, 1780, without including his commutation pay. Captain David Bushnell, and several other officers of the same corps, received final settlement certificates about the same period, which included their commutation pay. It cannot be supposed that Captain Duval would have omitted to claim his commutation, or that it would have been withheld from him, if it had been due. It appears from the certificate of the auditor of Virginia that Captain Duval made a settlement with the auditors of that State on the 18th day of April, 1783, and received pay for his services as a captain from the 2d of August, 1779, to the 1st of March, 1781, and no longer. If Captain Duval had continued in the corps of sappers and miners to the end of the war, he would have received his depreciation pay, under this settlement, up to the 31st of December, 1781. His failure to do so, seems very conclusive against the claim.

But if there were any doubt on this point, it would be put at rest by the proceedings of the House of Delegates of Virginia, at an early day, in relation to the claims of Captain Duval. At the October session of 1783, Daniel Duval petitioned the House of Delegates for an allowance of land bounty; and on the 11th of November of that year the committee reported as follows, viz:

"It appears to your committee that the said Daniel Duval was appointed an ensign in the continental army in the beginning of the year 1776, in which capacity he acted until 1778, when he was appointed aid de-camp to Major General the Baron de Steuben; that, in the year 1779, he was appointed by Congress to the command of a company of sappers and miners, *in which capacity he acted till the year 1781*, when, being in Virginia at the time of the invasion by Lord Cornwallis, he was appointed first a major, and then a lieutenant colonel of the militia; in which respective ranks he acted until the surrender of Lord Cornwallis.

*"Resolved,* That the petition of the said Daniel Duval, praying that he may be allowed the same bounty in lands as is by law given to a captain of the Virginia line on continental establishment, is reasonable."

If Captain Duval had served to the end of the war in the continental line, there would have been no necessity for petitioning the House of Delegates for the bounty, because the general law would have extended to his case. There is no intimation in the report that he was considered in service of any kind after the surrender of Cornwallis; and his service in the capacity of captain of sappers and miners is stated to have terminated in 1781, about the time of the invasion of the State by Cornwallis—that is, in the spring of that year. The commutation pay, then, has been improperly allowed him.

*Captain Charles Snead, (superseded.)*

On the 17th of July, 1838, an act was passed granting to the representatives of Charles Snead the commutation of five years' full pay of a captain of the revolutionary army, which has been paid at the Treasury, being \$2,400.

The evidence before the committee was, that Charles Snead's heirs had received bounty land from Virginia for seven years' service in the continental army, and that he had been paid by that State, under the act of November, 1781, for services as captain up to the 31st of December, 1781. "Also (the report says) an extract of the Chesterfield arrangement of the Virginia continental line, made under the resolve of October 21, 1780, certified by the auditor of Virginia, from which it appears that Captain Charles Snead became a supernumerary by the arrangement then and there made." This latter fact seems to be conclusive in favor of the claim. The misfortune is, the Chesterfield arrangement showed no such thing. The extract from it was as follows:

*"Chesterfield arrangement of the Virginia line, the 10th of February, 1781.*

No.	Names.	Former regiment.	Present regiment.	Date of commission.	Whose vacancy.	Remarks.
46	Charles Snead	9	5	May 10, 1779	Gilchrist's promotion.	Sup.

" Extract from the Chesterfield arrangement of the Virginia line.  
" JAS. E. HEATH, Auditor."

" AUDITOR'S OFFICE, December 24, 1833."

On looking at the Chesterfield arrangement, it will be found that Charles Snead, instead of being a supernumerary officer, was retained in service at that arrangement. The Chesterfield arrangement contains a list of supernumerary officers, among which Snead's name is not found; but it does appear on the rank-roll of captains, (No. 46, from which the extract is made,) and also on the roll of the 5th regiment, as one of the retained officers. On the Cumberland arrangement in May, 1782, his name is not found on the list of officers retained in service; but against the name of Philip Sansom, a captain of the first regiment, under the head of "remarks," is the entry, "Snead superseded." Snead's name is also found as a superseded officer in the Cumberland court-house list of September 2, 1782. Clearly, then, the abbreviation "*sup.*" on the margin of the Chesterfield arrangement, as shown by the foregoing extract, was inserted after the period of that arrangement, and signifies *superseded* instead of *supernumerary*. The term "*superseded*" had a definite and well understood meaning in the revolutionary army. It was applied to officers who, at any of the several arrangements of the army, were left off from the roll of their regiment in consequence of their long absence from the service without leave, and their neglect to claim their places in the line at such arrangement. Thus, at the Chesterfield arrangement, a number of officers were superseded by the appointment of others in their places; and several other officers, whose neglect of their duty was less marked and decided, were ordered to be superseded at a future day, unless they obtained a favorable decision of a court of inquiry on their conduct, before the day fixed for their being superseded. The following extract is from the proceedings of the board of arrangement of September 23, 1779: "The board beg leave to report that Captain Isaac Israel, of the 4th regiment, has been absent about sixteen months; that he has been repeatedly called upon to join his regiment, without effect; that he had offered to resign at different times, and there was reason to believe he did not consider himself in the line." Captain Israel was accordingly superseded at this arrangement. If, therefore, an officer was superseded, he was out of service as much as if he had resigned; and, moreover, he was out of service with some degree of censure resting upon him. Consequently, the representatives of Snead could not be entitled to commutation.

No blame is imputed to the auditor of Virginia, who is doubtless an upright and valuable officer; nor to the committee, who, from the extract, were justified in the belief that Snead was a supernumerary. It is, however, a remarkable fact, that, in this, the only instance in which this important arrangement has been invoked by committees of either House of Congress, it should have been made to give a false response—that it should have been used to prove an officer entitled to commutation, when it furnished conclusive evidence to the contrary.

Captain Snead had been in service more than three years; but he was not entitled to bounty land from Virginia, because the law of that State forbade its allowance to an officer who had been "*superseded*." This must have been well known to Captain Snead, who does not appear to have applied for land in his lifetime; but, in 1823, his heirs applied, and obtained an allowance for a service of seven years, being 4,666 acres.

*Lieutenant Timothy Feely.*

July 7, 1838, an act passed granting the commutation pay (\$1,600) to the representatives of Lieutenant Timothy Feely.

It appeared to the committee who reported the bill that Feely was appointed an ensign in the 11th Virginia regiment December 10, 1776, and promoted to a lieutenancy on the 6th of November, 1777, and that he was paid his depreciation pay by Virginia up to December 31, 1781. From this evidence the committee think "he was clearly entitled to his commutation, unless he forfeited it by resigning his commission, or by being expelled the service, of which there is no ground of suspicion whatever."

Notwithstanding the absence of any suspicion that Timothy Feely could have left the service before the close of the war, it now satisfactorily appears he did so. His name is found on the arrangement of February, 1781, as then in service, and also on the previous arrangements of September, 1778, and of March, 1779; but it is not found on the Cumberland courthouse arrangement of May, 1782; nor on the Winchester arrangement of January, 1783; nor on the list of officers to whom specie pay was due in 1782 and 1783; nor on the officer's book; but it is found on the Cumberland list of resigned and superseded officers of September 2, 1782. He left the service between February, 1781, and May, 1782.

Lieutenant Feely was entitled to land from Virginia for three years' service, which he received July 29, 1786.

The case of Timothy Feely completes the list of all the commutation acts (29 in number) which have been passed in favor of officers or their representatives for services claimed to have been performed in the Virginia line, not one of which, it will have been perceived, is, in the opinion of the committee, well founded.

The space which has already been occupied in this examination will prevent the committee from going into a detailed examination of the cases now pending, which have heretofore been received with favor by the House, but which now very clearly appear to be unfounded. The committee will, however, mention some of these cases, in most of which bills have heretofore passed one of the two Houses, and been lost in the other, usually for want of being reached on the calendar of business.

*James Broadus.*—He served as ensign from October 2, 1779, to December 2, 1780, and then left the service, (two months before the Chesterfield arrangement,) and could not be entitled to commutation.

*John Barnes.*—He was a lieutenant in the 7th Virginia regiment, and was superseded at the Cumberland arrangement in May, 1782.

*James Hackley.*—His name is not on any document, either at Richmond or Washington, as an officer in the continental line for any period. Nevertheless, he was allowed the land bounty of a lieutenant (2,666 acres) on the 30th July, 1835.

*Captain Samuel Jones.*—He appears to have left the service on the 1st of February, 1781, (before the Chesterfield arrangement,) and could not be entitled to commutation.

*Captain Nathan Lamme.*—He resigned between February, 1781, and May, 1782, as appears by the Cumberland list of September 2, 1782.

*John McDowell.*—He was a lieutenant in the 8th Virginia regiment, and resigned on the 16th of February, 1781.

*Simon Summers.*—On the 14th of November, 1783, he presented his account to the auditors of Virginia, under the depreciation act, and was allowed pay for his services as an adjutant from the 1st of January, 1777, to the 10th of February, 1781. In his account which he presented, he is described only as an adjutant; but in the registry of his allowance he is also designated as a lieutenant. As his name is not found on any of the arrangements as a lieutenant, it is not probable he belonged to the line. But, whether he did or not, he could have no just claim to commutation pay, as he left the service the 10th of February, 1781—before the arrangement under the resolution of October 21, 1780; in which arrangement his name is not mentioned, either as a supernumerary or in any other character; nor is it mentioned on any other arrangement. It appears, from original papers on file in his case, that, in the summer of 1781, he was an assistant quartermaster, under Colonel Hendricks, in the State service, having some charge of the transportation of warlike stores; which service, had it been under Congress, would not aid his claim to commutation—being service in the staff department, and not in the line. In 1784 he presented his petition to the Virginia House of Delegates, asking for half pay, not for a service to the end of the war, but because, as he expresses it in his petition, “he was engaged for a considerable time in the service of his country as an adjutant, during which he contracted a violent dysentery.” It was, then, strongly for his interest to claim for a service to the end of the war, or to have been a supernumerary. As he made no such claim, the conclusion is irresistible that it could not justly be made.

*John Towns.*—He was a lieutenant in the 6th regiment, and resigned March 12, 1782.

*William Vause* was a captain in the 8th regiment, and was superseded at the Chesterfield arrangement, February, 1781.

*John Winston, Turpley White, and John Marks* left the service during the sitting of the board of arrangement, at Chesterfield, in the month of February, 1781, doubtless by resignation—Winston on the 13th, and White and Marks on the 15th of February.

*Thomas Wishart.*—His claim to commutation was made in 1793, and then fully considered by the proper authorities, and rejected. (See resolutions, &c., relative to revolutionary claims, published by order of the House of Representatives, in 1838, page 143.) Nevertheless, the committee made a favorable report in the case in 1838. It now appears, from papers attached to the arrangement made at White Plains, in September, 1778, that at the time of that arrangement he was absent in Virginia without leave; and by the journal of the Virginia House of Delegates, of November 10, 1789, that he resigned his commission on the 1st of August, 1779.

The cases of *Colonel Francis Taylor, Lieutenant Colonel Wm. Fountain, Captains James Burton, Garland Burnley, and James Purvis, and Lieutenant Samuel O. Pettus*, who did not belong to the continental line, but were officers in the volunteer regiment of convention guards, have all received favorable reports from committees, and several of them have passed the House of Representatives.

There are numerous other claims which, from time to time, have received the favorable action of committees of one or the other of the two Houses, and are now pending; which, tested by the documentary evidence

now brought to the attention of the House, will be found to be clearly unfounded.

In most of the cases which have been heretofore examined, the persons for whose services the claims were made, were, at some period of the Revolution, officers in the continental army. But the spirit of speculation and adventure has gone beyond the pale of the army, and sought out subjects for these claims, who never had any connexion with a continental commission. Of this class of claims, and the manner in which they progress from small beginnings to important results, a sample may be found in the case of

*William Madison.*

The name of William Madison is not found as a continental officer on any of the rolls or settlements, either of Virginia or the United States; and he had lived for fifty years after the close of the war without making any claim on either for pay or bounty lands. He produced no commission, and does not say he ever had any. On the 7th of August, 1835, he for the first time applied for the benefit of the act of May 15, 1828; but his claim was rejected. In July, 1836, he was admitted a pensioner under the act of 1832, for services, as follows:

For four months and fifteen days' service as a private in the militia cavalry	\$18 75
For two months and nineteen days' service as lieutenant	43 88
'The amount of his pension being, per annum	<u>62 63</u>

On the 6th of January, 1838, he obtained a land warrant from the Executive of Virginia for 2,666 acres, for services as a lieutenant of artillery in the continental line to the end of the war. The only evidence on which the warrant issued was that of Robert Taylor and George Corbin. Robert Taylor testified he saw William Madison in service at the siege of York; but he did not pretend to know any thing of the rank or the line to which he belonged. George Corbin, to whose character nobody certifies, states himself to have been a private in the militia at the siege of York, and to have seen William Madison in service there, *as a lieutenant in Colonel Harrison's regiment of continental artillery.* The witness mentions circumstances which makes him certain he saw William Madison at that siege; but he omits to tell how he became possessed of the important information that he held a commission in the continental army. This was, at the best, but matter of opinion, and which was very probably formed at the time of giving the affidavit, in 1835. On this evidence, attempted to be bolstered by the claimant's own affidavit, and the certificate of the Madison county court, the land warrant was granted.

On the 14th of February, 1838, the petition of William Madison for commutation was presented to the House of Representatives; and, on the evidence before recited, and a certificate from Virginia that he had been allowed the State bounty land, the Committee on Revolutionary Claims on the 26th of March reported a bill granting him five years' full pay, with interest computed on the principles of the funding act. Three days after the bill was reported, and before the papers could be printed, copies, certified by the Clerk of the House, of this favorable report, together with the

evidence on which it was made, were taken to the War Department, and a claim made for United States bounty land. The clerk of the Bounty Land Office declined granting it, and an appeal was taken to the Secretary of War. The acting Secretary (the Secretary himself being sick) directed a bounty-land warrant to be issued; which was accordingly done on the 29th of March, 1838. The decision of the acting Secretary of War, that William Madison was entitled to bounty land for a service to the end of the war, being certified to the Commissioner of Pensions, he was, on the next day, admitted to the benefit of the act of May 15, 1828.

The amount received by William Madison from these allowances is as follows:

Under the act of May 15, 1828	- - - - -	\$5,400 00
2,666 $\frac{2}{3}$ acres of Virginia land, supposing scrip to have issued	- - - - -	
at \$1 25	- - - - -	3,333 33
200 acres United States bounty-land scrip	- - - - -	250 00

Making - - - - - \$8,983 33

To which should be added the amount of commutation pay and interest, as proposed by the bill, \$6,018; making \$15,001 33, which William Madison would have received, had the bill as reported become a law; and all for at most two months and nineteen days' service, and that proved by the single testimony of a private in the militia, of whose character or standing no information is given.

The bill for the relief of William Madison was, on debate, rejected in the House without a division.

But the modern hunters after commutation pay have not confined their efforts to single cases. They have attempted to bring in new claimants, not only by regiments, as in the case of the convention guards, but by classes of officers extending throughout the whole army. Thus, not only staff officers, as has been heretofore mentioned, but the class of surgeons' mates, to whom commutation pay was never promised, and who were early and uniformly decided by the board of war and the old Congress not to be entitled, have come forward with their claims for five years' full pay, and their title has been allowed. The number of claimants which belong to this class cannot be now known. Already several have been allowed, and many more are pending.

If, in reference to claims for commutation, Congress is to continue as it has done for a few years past, allowing vague surmises and presumptions to set aside the judgments and opinions of the men of the Revolution, and to overthrow the records with which they have furnished us—if Congress is to go on enlarging the basis of right to commutation, by taking in new regiments and new classes of officers, the committee cannot look forward to a period when the adjustment of these claims is to be brought to a close, or conceive of a limit to the amount of money which will be drawn from the Treasury. In the whole course of the examination which the committee have made, they have not found a single claim which, in their opinion, would have been allowed by the accounting officers under the Confederation, or those who adjusted the claims under the act of March 27, 1792; or which, in the opinion of the committee, ought to be allowed. Such cases may have been presented to Congress; but, if so, they must have been extremely rare. So far as the examination of the committee has gone, they are all emphatically

*modern* claims, which, at the proper time of presenting them, were never dreamed of by the persons for whose services they are made; and claims which never would have been presented to a tribunal possessing the rolls and records of the Revolution, and having an intimate knowledge of the service of that period.

The committee having now completed the report of the result of their examination "into the character and amount of proof which is required by existing laws and regulations to establish" Virginia bounty land and commutation claims against the United States, it now only remains for them to execute the other branch of their instructions, which is, "to inquire whether any, and what, further legislative measures be necessary in regard to the mode of adjusting and allowing such claims."

And, *first*, as to what legislative measures may be necessary in reference to bounty land claims.

The existing laws contain no provision authorizing the satisfaction of Virginia land warrants by the United States, except that the remnant of the reservation between the Scioto and Little Miami, northwest of the Ohio, is still open to the satisfaction of warrants granted for services in the *continental* line; and by act of July, 1838, will continue open for such locations until August 10, 1840. The land remaining unlocated of this reservation, was estimated on the 2d of February, 1839, at 208,737 acres. (See appendix No. 2.) Doubtless, a considerable portion of it has since been located; and considering that its probable value would not pay the expense of reclaiming and putting it in market, and that by omitting to do so all occasion for complaint will be avoided, the committee are disposed to abandon it to the claimants which Virginia has recognised. They, therefore, propose no change in the existing law on the subject of this reservation.

But as this reservation, if it should all be taken up, will be insufficient to satisfy existing *continental* warrants, leaving all the *State* warrants unprovided for, the important question arises, whether an additional appropriation of land, or its equivalent in scrip or money, ought to be made for their satisfaction.

Entertaining the opinion which the committee do, and which they have hereinbefore expressed, that the great mass of the warrants now unsatisfied have been improvidently issued, it cannot be expected that they would recommend their indiscriminate satisfaction. But, on the supposition that a portion of them may possibly have been granted for services really performed in conformity with the laws of Virginia, the question arises, whether some tribunal ought not to be constituted by this Government to re-examine them, in order that such claims as may appear just may be satisfied by the United States.

It is obvious that the determination of this question may involve another, viz: whether there was any original obligation, on the part of this Government, to make provision for satisfying the bounty land claims of the *State* troops of Virginia, or of the *continental* troops, by other means than the Ohio reservation? If such obligation existed, and be still subsisting, there would be a necessity of providing means for ascertaining and discharging the good claims, however troublesome and expensive might be their adjustment.

This brings the committee to an examination of the grounds on which the appropriations of land scrip have heretofore been made by the United States, and on which still further appropriations are urged upon Congress.

As regards the warrants for services in the *State* line, these grounds are two:

- 1st. An alleged *mistake* in the deed of cession.
- 2d. An alleged interference by the United States, at an early day, by which the holders of State line warrants were prevented from locating them in Kentucky.

The only argument which appears from the published debates to have been made in favor of the first appropriation of scrip to satisfy Virginia State line warrants in May, 1830, is contained in the speech of a distinguished Senator from Virginia, (Mr. Tyler,) which will be found in Gales & Seaton's Debates for 1829 and 1830, page 421. In that speech the claim of Virginia to have her State line bounties paid by the United States, is not put on the ground of there being any general obligation on the part of this Government to satisfy the promises of bounties made by the States, but on grounds peculiar to the claims of Virginia. It was said a *mistake* had occurred in the deed of cession, by which provision was omitted to be made for the State troops, though it was the intention of the parties to provide for them. This alleged mistake has also been the leading argument in favor of all subsequent appropriations of scrip.

The Senator, in the speech before mentioned, disclaimed all idea of appealing to the liberality or bounty of the United States, and declared, that if the State troops of Virginia had no claim either in justice or equity on the United States, or (to use his language) "if, in plainer words, they were not entitled to obtain, provided this Government was suable, a decree or judgment in a court of law or equity, for that which is now demanded for them, he desired that the bill might be rejected." The Senator then proceeds to give an account of the nature and history of the Virginia State bounties, and to state his views of the mistake said to have been made in the deed. "That, in 1781, the General Assembly of Virginia passed certain resolutions authorizing a cession of her western territory to the United States, on certain conditions, among which were a reservation of the territory between the Scioto and Little Miami, northwest of the Ohio, for the satisfaction of the bounties which she had promised to her troops, both *State* and continental; that this was the power of attorney under which her delegates acted in executing the deed, and that they could not justly exceed the power conferred; that the words '*upon their own State establishment*', in the aforementioned resolution of the Virginia Assembly, in that clause relating to such reservation, immediately followed the words '*upon continental establishment*'; but that, in the progress of the matter through Congress, these important words were accidentally omitted, and the deed executed without inserting them." "In fact," says the Senator, "the journals of Congress of 1783 show how the mistake originated. A committee was appointed to consider of the terms of cession, and to report thereon; and they undertook, in their report, to set forth, in the very words of each, the various conditions on which Virginia had proposed to make the cession. The fifth condition was that appertaining to this subject; and in the recital of that, the error was committed, which ran into the deed afterwards. The committee had the resolution of the General Assembly before them, and it is not to be credited for a moment that they intentionally recited falsely its terms. It is much more creditable and just towards the committee to ascribe the omission to a mere oversight. If he was right in this, it followed that

the State troops had a full right to enter upon the reserved lands northwest of the river Ohio, in order to locate their warrants."

Upon this statement of fact and argument a few remarks will be made. And, in the first place, it may be observed, that, whatever language in reference to the *State* troops the original resolution of Virginia might contain, no proposition for satisfying their bounties was ever made by Virginia to Congress; and, of course, no omission in transcribing, either designed or accidental, could have been made in that body, by its committees or otherwise. The resolution of Virginia, referred to by the Senator, was passed on the 2d of January, 1781; and the identical official copy of the resolution which was first transmitted to Congress, and on which that body acted, duly certified by John Beckley, clerk of the House of Delegates, with the original autograph letter of Governor Jefferson, of the 17th of January, 1781, transmitting it, is now to be found in the State Department of this Government. (See manuscript papers of the old Congress, No. 71, vol. 2.) The copy of the resolution, which is in a neat plain hand, without blot or erasure, contains no reservation for the troops of the *State* line, but is, so far as it relates to the Ohio reservation, precisely in the words of that clause, afterwards inserted in the deed of cession. The mistake, then, if any, was made by Virginia herself, in not making any proposition to Congress for the satisfaction of her State bounties. Whatever might have been her intentions on the subject, it cannot well be pretended that such mistake on her part can impose on this Government, which was kept in ignorance of such intentions, any obligation which would be enforced in a court of law or equity; for it will readily be seen that such court could not ascertain whether, if the proposition had been made, it would have been either accepted by Congress or insisted on by Virginia.

But, although there could be no legal or equitable obligation on the part of this Government to indemnify Virginia against the consequences of her own mistakes, still, if the proposition to provide for the State line was intended to be made by Virginia; if, in reasonable probability, it would have been accepted by Congress; if it was important to Virginia to insist upon it, and if she had no fair opportunity of correcting the mistake, such mistake might perhaps not improperly form the basis of an appeal to the generosity of Congress. It may not, therefore, be deemed wholly unimportant to examine a little further into the history of this act of cession.

Without going into a tedious history of the proceedings in Congress on the propositions of cession contained in the resolutions of Virginia, it may be sufficient to say that the resolutions were received by Congress and referred to a committee on the 31st of January, 1781; that such committee having made report on the same, they were again recommitted to another committee, who, on the 3d of November, 1781, submitted a report, (see Journals of May 1, 1782,) which was discussed from time to time, under various motions and propositions, until the 13th of September, 1783—a period of more than two years and a half from the time of their original presentation to Congress; when, on the report of another committee, to which the resolutions had been again referred, and of which committee Mr. Madison of Virginia was a member, Congress came to certain resolutions, by which they agreed to accept the cession of Virginia, with sundry proposed alterations and amendments in the terms thereof—the clause relating to the reservation northwest of the Ohio remaining precisely as had been proposed to Congress by Virginia, applicable only to the troops of the con-

tinental line. Can it be possible that, at no time during the progress of this thorough discussion of the claims and pretensions of Virginia—in which discussion the delegates from that State must have largely participated—and at no time during the scrutinizing examination of the Virginia resolutions by committees, this omission, now deemed so very important, should have been brought to the notice of the Virginia delegates? To suppose such a thing possible, is to ascribe to the delegates from Virginia of that day an inattention to, and neglect of, her interests, of which the Senators and Representatives from that State at the present time have never been suspected, and with which such men as Mr. Madison, Mr. Jones, Mr. Bland, Mr. Edmund Randolph, Mr. Arthur Lee, and Mr. John Fenton Mercer, who were among the delegates of that period, have, never, it is believed, been seriously charged.

But these resolutions, adopted by Congress on the 13th of September, 1783, as the terms on which a cession of the western territory would be accepted by Congress, were transmitted to Virginia; and, being presented to the House of Delegates, underwent a discussion in that body; and, being approved by both Houses, a law was passed authorizing the delegates of Virginia in Congress—not on the terms proposed by Virginia in her resolutions of January, 1781, but on the terms of said resolutions of Congress of the 13th of September, 1783—to execute to the United States a deed of cession of said territory.

From the preamble to this act of cession of Virginia, the following extract is made: "And whereas the United States in Congress assembled have, by their act of the 13th of September last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof; *which terms, although they do not come fully up to the propositions of this Commonwealth,* are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof," &c. The act then proceeds to recite the terms proposed by Congress in the words of their resolutions, copying at full length the clause in reference to the reservation in Ohio, and making it applicable to the bounties to the continental line only. This act of Virginia, of the October session of 1783, (and not, as had been supposed by the beforementioned Senator from Virginia, the resolutions of January, 1781,) was the "power of attorney" under which the delegates from Virginia acted in executing the deed. That this was their authority, is shown by the deed itself; which copies the words of the act at length, and declares it to be by virtue of the authority of that act that the deed was executed. (For copy of deed of cession see appendix No. 12.)

It would seem that this solemn act of Virginia (in the accomplishment of which a bill must have been reported by a committee, passed through all the forms of legislation in two distinct legislative bodies, whose constituents were deeply interested in securing the bounties which had been promised them by the State) must be taken as satisfactory evidence against any supposed mistake made nearly three years previously, or as evidence that, if such mistake had been made, it was for some reason or other, at the time of authorizing the cession, either deemed as inadmissible by Congress, or as not important to be insisted on by Virginia. Thus much of the sanction of Virginia to the alleged mistake, which appears on the face of the deed of cession itself.

But the evidence that the mistake, if there were any, made in copying the resolutions of January, 1781, must have been known to, and acquiesced in

by Virginia, does not end here. It has already been mentioned, that at the same session of the General Assembly of Virginia at which the deed of cession was authorized, an act had passed regulating the locations of military bounty-land warrants on the western lands set apart for their satisfaction. This act had been passed on the memorial of a deputation of officers of both the continental and State lines, who were in attendance upon the General Assembly to look after the interests of their respective lines in those lands, during the pendency of the act of cession before the Legislature. The following is an extract from the journal of the House of Delegates of December 16, 1783:

*"Resolved,* That the deputation of officers, viz: Generals Scott and Morgan, Colonels Heth and Temple, from the continental line; and General Clarke, Colonel Dabney, and Captain Roane, from the State line; having attended the General Assembly on the business of their respective memorials, be allowed the sum of two dollars per diem, respectively, and the same sum for every day's travelling expenses to and from this place."

If we were to suppose all the members of the Legislature to have been so inattentive to the claims of their constituents as to overlook the fact that the proposition of Congress had omitted to make provision for locating State line warrants on the reservation in Ohio, it would seem altogether impossible that the fact of such omission should have escaped the notice of the State line officers specially attending the Assembly in charge of the interests of that line.

But the committee have looked into the journal of the Virginia House of Delegates for the proceedings of that body in reference to the act of cession, and find that the clause in the resolutions of Congress of the 13th of September, 1783, relative to the bounty land reservation northwest of the Ohio, did attract the special attention of that body, and that, on solemn consideration and debate, it was allowed to stand as proposed by Congress, without inserting any provision for the State troops.

That the bearing of the proceedings of the House of Delegates may be fully understood, a copy of the journal, so far as it relates to the question under consideration, will be inserted.

*Monday, December 9, 1783.* "The House, according to the order of the day, resolved itself into a committee of the Whole House on the state of the Commonwealth; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Nicholas reported that the committee had, according to order, again had the state of the Commonwealth under their consideration, and had come to a resolution thereupon; which he read in his place, and afterwards delivered in at the Clerk's table, when the same was again twice read, and agreed to by the House, as followeth:

*"Resolved,* That the Delegates of this State to the Congress of the United States be instructed and fully authorized to convey, by proper instrument in writing, on the part of this State, to the Congress of the United States, all right, title, and claim, which the said Commonwealth hath to the lands northward of the river Ohio, upon the terms contained in the act of Congress of the 13th of September last: *Provided,* That lands be reserved out of those hereby proposed to be ceded, sufficient to make good the several military bounties agreed to be given to sundry officers, by resolutions of both Houses of Assembly; the lands hitherto reserved being insufficient for that purpose.

"Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Messrs. Nicholas, Joseph Jones, Henry, William Cabell, White, and Randolph, do prepare and bring in the same."

December 15, 1783. "Mr. Joseph Jones presented, according to order, a bill 'to authorize the delegates of this State in Congress to convey to the United States in Congress assembled the right of this Commonwealth to the territory northwestward of the river Ohio,' and the same was received and read the first time, and ordered to be read a second time." Same day: "A bill 'to authorize the Delegates of this State in Congress to convey to the United States in Congress assembled the right of this Commonwealth to the territory northwestward of the river Ohio,' was read the second time, and ordered to be committed to a Committee of the Whole House tomorrow."

December 18, 1783. "The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill 'to authorize the Delegates of this State in Congress to convey to the United States in Congress assembled the right of this Commonwealth to the territory northwestward of the river Ohio,' and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Thruston reported that the committee had, according to order, had the said bill under consideration, and had gone through the same, and *made several amendments thereto*, which he read in his place, and afterwards delivered in at the Clerk's table; which were again twice read, and agreed to by the House.

"Ordered, That the bill, with the amendments, be engrossed, and read a third time."

It further appears from the journal, that the bill was afterwards read a third time, and passed; concurred in by the Senate without further amendment; and became a law, as before stated.

What was the precise language of the amendments which were made to the bill in Committee of the Whole, and afterwards adopted by the House, does not appear. It is certain, however, that one of them related to the proposition of Congress of the 13th of September preceding, which reserved land for military bounties; because, by the resolution of the Committee of the Whole, the committee who were to bring in the bill were instructed to make further provision for military bounties, in consequence of the previous provision being deemed insufficient; and as the bill, when it became a law, contained no such provision, the clause containing it (doubtless for sufficient reasons assigned in debate) must have been stricken from the bill, being one of the amendments noticed in the journal.

Whether the bill, as originally reported by the committee, contained a clause for placing the State troops on the same footing, in regard to the Ohio reservation, as the continental, cannot now be ascertained from the journal. But whether it did so, or not, is immaterial to the present inquiry; which is, whether the authorities of Virginia had an opportunity of correcting the mistake, if there were one, in the resolutions of January, 1781? That they had such opportunity, is conclusively and indisputably shown by the fact, that the sufficiency of the provision, as proposed by Congress, and afterwards inserted in the deed, was a matter fully discussed in the House of Delegates of that State, before the making of her "power of attorney" to her delegates in Congress to execute her deed; and on such discussion, the provision, as finally inserted in the deed, was approved and assented to.

A recurrence to the state of things existing at the time of the passage of the act of cession by Virginia in 1783, will make it appear very plain that it could not, at that time, have been deemed a matter of any importance whether a right to locate warrants on the reservation in Ohio was reserved to the State troops or not. This will account for the fact, that no provision of that kind was insisted on by the House of Delegates.

It will be remembered that the State of Virginia had previously set apart a large tract of country in Kentucky, for the satisfaction, indiscriminately, of the bounties to the troops of the two lines, both State and continental; and, at the same October session of the Assembly in 1783, and before the passage of the cession law, she had provided for the appointment of superintendents of surveys, or agents of the respective lines, with ample powers in reference to surveys and locations. Now, if the State line was allowed to participate in the Ohio reservation, then the land set apart in Kentucky might be divided between the troops of the respective lines, in proportion to the quantity of land which was required for the satisfaction of each. If the continental line only was allowed to locate in Ohio, then a larger portion must be set apart in Kentucky for the State line: that is, the continental line having the sole benefit of the Ohio reservation, would require less land in Kentucky than it otherwise would have done; and the State line, having no benefit in it, would require more. This could not but have been well understood both by the Legislature of Virginia, and the agents of the respective lines in attendance on that body at the time of the passage of the act of cession, as before stated. Accordingly, in pursuance of such understanding, the committee find that the superintendents of surveys of the respective lines, on entering upon the discharge of the duties of their appointments, immediately proceeded to divide the territory set apart in Kentucky between the troops of the respective lines, by metes and bounds; assigning to the troops of the State line, which were less than one-third the number of those of the continental line, nearly double the quantity of land which was assigned to the continental line. It appears from a letter of David H. Burr, draughtsman of the House, (see appendix No. 13,) that the whole quantity of land reserved in Kentucky for the satisfaction of military bounties, was 9,728,000 acres; and that, of this, 6,208,000 acres was assigned to the State line, and 3,520,000 acres to the continental line. Thus it will be perceived that ample indemnity was made to the State line for its want of participation in the Ohio reservation, by increasing its territory in Kentucky; and that the effect of omitting to provide for the satisfaction of State line warrants in Ohio, was not to lessen the quantity of land appropriated to that line, but merely to limit its choice to the lands in Kentucky; a limitation which, at that period, must have been deemed of very trifling, if, indeed, it were considered of any importance.

The committee have been thus particular in their examination of the alleged *mistake* in the deed of cession, because it has been made the principal foundation for all the appropriations of scrip which have hitherto been made, and is still understood to be a leading argument in favor of further appropriations. From this examination, the committee think the House will be satisfied that there is not the slightest ground for complaint on the part of Virginia, on account of any mistake in the deed of cession, no mistake in the deed having been made; that the only mistake which could possibly have happened was made by the clerk of the Virginia House of Delegates, in omitting the words "on their own State establishment," in the

copy of the resolutions of Virginia of January 2, 1781, which was sent to Congress; that such omission was well known and understood by the Legislature of that State when, three years afterward, the act of cession was passed; that, at the time of the passage of the said act of cession, in December, 1783, the Legislature of that State voluntarily neglected to insert any provision for satisfying State line warrants out of the Ohio reservation—for the very good reason that it was of no importance to have them thus satisfied; and that, in point of fact, the notion taken up by the Virginia claimants, and so long urged upon Congress, of there having been a mistake in the deed of cession, is itself a *mistake* of the most palpable and glaring character, and one which ought long since to have been discovered and corrected.

Another argument in favor of these State bounty-land claims is based upon an alleged interference of the United States in the location of State line warrants in Kentucky, which, it is said, prevented the holders from obtaining satisfaction of them out of the lands set apart in that State for that purpose. This argument appears to have been but slightly glanced at when the scrip act of May, 1830, was passed; but it has since assumed a greater degree of importance, particularly in the report made to the Virginia House of Delegates in December, 1834, before referred to. This report, as has been before stated, was reprinted, by order of the House of Representatives of the United States, on the 19th of February, 1835, as an inducement to the appropriation of the 650,000 acres of scrip made by act of March 3, 1835; and was, also, on the 25th of March, 1836, reported to the House by the Committee on the Public Lands, and ordered to be again printed, accompanied by a bill making a further appropriation of land scrip for the satisfaction of Virginia warrants. (Document No. 158, 2d session 23d Congress; and document No. 189, 1st session 24th Congress.) It also forms a principal part of the report of the Committee on the Public Lands of the present session, which accompanies bill No. 280, appropriating 500,000 acres of land to satisfy such warrants. The importance thus given to this report renders it proper that this committee should notice it further.

In order that the argument of this report may be fully and fairly stated, it will be inserted at length:

"First, with respect to claimants for service in the State line. *These have never, since the year 1784, had it in their power to make their claims available.* In the year 1784, the superintendent appointed by the deputation of officers, proceeded to Kentucky, for the purpose of laying off and surveying the lands in the military district of the Kentucky reserve, but found them in possession of the Indians, and claimed by them. The settlers in that country earnestly represented to the Legislature of Virginia, that, if the surveys were persisted in, the infant and defenceless settlements in Kentucky would be involved in all the horrors and calamities of an Indian war. Accordingly, at the October session of 1784, the Legislature authorized the Governor of Virginia 'to suspend, for such time as he may think the tranquillity of the Government may require, the surveying or taking possession of those lands which lie on the northwest side of the river Ohio, or below the mouth of the river Tennessee, and which have been reserved for the officers and soldiers of the Virginia line and the Illinois regiment.' (See *Hen. Stat. at Large*, vol. 11, p. 447.) In pursuance of this authority, the Governor of Virginia, on the 6th of January, 1785, issued his

proclamation, suspending the surveys. Thus, Virginia, by her own act, put it out of the power of her officers and soldiers, after the 6th of January, 1785, to locate their warrants. This inhibition by the State authority continued until the 10th of January, 1786, when the prohibition was continued by the act of the General Government. At that date, the treaty of Hopewell was concluded between the United States and the Chickasaw Indians, 'guarantying to the Indians, as part of their habitation and hunting-grounds, all the lands below the Tennessee river; and providing that, if any citizen of the United States, or any person not being an Indian, shall attempt to settle on any of the lands thereby allotted the Chickasaws to live and to hunt on, such person shall forfeit the protection of the United States of America, and the Chickasaws may punish him or not, as they please.' (See Mr. Johnson's report, in the Journal of 1821-'22. p. 4 of the report.) The treaty of Hopewell existed in force until the year 1818, when the Indian title was extinguished. After that period, Kentucky would not permit the locations of military warrants to be made. Thus it appears that the officers, &c. of the State line, who had not surrendered their warrants prior to the 6th January, 1785, (and they are many,) have been utterly precluded from the satisfaction of their claims until the recent appropriations by Congress—first, by an act of Virginia herself, resulting from humane considerations in relation to the infant settlement of Kentucky; secondly, by the act of the Government of the United States; and, finally, by the State of Kentucky. The holders of State line warrants dared not, from 1785 to 1818, under the penalty of Indian violence and vengeance, intrude upon the lands allotted them. They forfeited even the protection of the United States; and, if they offended against the provisions of the treaty, they were placed at the mercy of the ruthless savage. It cannot escape observation, that, but for the provisions of the treaty of Hopewell, the State line warrants might have been, and doubtless would have been, located in Kentucky."

This committee have looked into the matter here stated, and are constrained to say that the committee who made the report from which this extract is taken labored under a most extraordinary misapprehension in regard to facts—a misapprehension for which it is difficult to find the semblance of an apology. Notwithstanding the assertion in the foregoing report, "that the officers, &c., of the State line, who had not surrendered their warrants prior to the 6th of January, 1785, had been utterly precluded from the satisfaction of their claims until the recent appropriations by Congress," and the long argument of the committee to prove such to have been the fact, it is, nevertheless, palpably untrue. On the contrary, the holders of those warrants had full and uninterrupted opportunity of satisfying them in Kentucky, from 1784 until the 1st of May, 1792, when their further location was put an end to by the voluntary act of Virginia, and without any interference on the part of the United States. A brief statement of facts will put this matter in its proper light.

The territory on the southeast side of the Ohio, which, by acts of May, 1779, and November, 1781, had been set apart by Virginia for satisfying her military bounty land warrants, included all that part of the present State of Kentucky which lies south and west of Green river, and a line running from the source of said Green river, a southeast course, to the Cumberland mountains. In 1784, the superintendents of surveys, as has been hereinbefore stated, divided this territory between the troops of the respec-

tive lines, assigning to each a portion by distinct bounds. That part of the territory assigned to the troops of the continental line was bounded by the rivers Ohio, Green, and Big Barren, and a line running from the Big Barren parallel with the south line of the State, and six miles distant therefrom, to the highlands between the Cumberland and Tennessee rivers, and along the highlands to the Ohio. To the State line, including the navy, was assigned all the residue of the territory. All the boundary lines here alluded to are marked on Munsell's large map of Kentucky, which may be found in the library of Congress, and from which the committee have ascertained the quantity of land included in the territory. (See correspondence with David H. Burr, appendix No. 13.)

The number of acres in the whole territory is 9,728,000. Of this, there is included in the territory assigned to the continental line 3,520,000 acres, and in the territory set apart to the State line and navy 6,208,000 acres. And (which is important to be noticed) of the territory assigned to the State line, 4,350,000 acres are situated east of the highlands which divide the Tennessee from the Cumberland river, and 1,858,000 acres west of said highlands.

Now, the proclamation of the Governor of Virginia, in January, 1785, suspending locations, and the treaty of Hopewell, in 1786, recognising the right of the Chickasaws, and excluding the whites from settling on their hunting grounds, apply only to that part of the State line territory which lies west of the beforementioned highlands, leaving all that part lying east of said highlands unincumbered by Indian claims. The Indian title to the whole of Kentucky which lies north and east of said highlands had been extinguished by purchase before the year 1779, (see 1 Marshall's History of Kentucky, p. 12 to 15;) and locations might have been made, and were, in point of fact, made on the same, without interruption or controversy, until the State of Virginia, by her own voluntary act, chose to terminate the right of location by act of her Legislature. On the 18th of December, 1789, the General Assembly of Virginia passed an act, declaring the terms on which the district of Kentucky might become an independent State, one of which was as follows, viz:

"That the unlocated lands within the said district, which stand appropriated to individuals, or described of individuals, by the laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of Virginia, according to such appropriation, until the first day of May, one thousand seven hundred and ninety-two, and no longer; thereafter, the residue of all lands remaining within the limits of said district shall be subject to the disposition of the proposed State."—(13 Hening's Statutes, 19.) These terms were acceded to by the people of Kentucky; and thus, on the 1st of May, 1792, after the troops of the State line had had a free and uninterrupted opportunity of satisfying their claims for more than the period of eight years, Virginia chose voluntarily to abandon any further claim on their behalf—doubtless under the belief that full and adequate opportunity had been given for the satisfaction of all just claims.

It must be apparent that there was no deficiency of good lands in the State line territory, excluding all that covered by the treaty of Hopewell, to satisfy all State warrant claims. It appears from a document hereto appended (appendix No. 4) that the whole quantity of warrants issued to

the State line and navy, before the 1st of May, 1792, was 1,140,583 acres. Now, the quantity of land in the State line territory lying east of the highlands which divide the Tennessee from the Cumberland river, and which was unincumbered by Indian title, was, as before stated, 4,350,000 acres. If we suppose all the warrants issued to have been located, there would still have been left 3,209,417 acres unlocated; which shows, conclusively, that if the State line warrants were not located in Kentucky, it was not for the want of unincumbered lands on which to satisfy them. A great portion of the land thus remaining unlocated was among the richest and most desirable in Kentucky, from the sale of which the Government of that State afterward derived a large and continued revenue.

In confirmation of the view here taken of the subject, the committee submit a letter from the Hon. J. R. Underwood, member of the House of Representatives from Kentucky, who resides on the military bounty land territory set apart by Virginia, and who, from his former professional employments, and the judicial stations he has occupied, has become familiar with the history of that territory.

The letter, which is in reply to one addressed him by a member of the committee, is as follows:

REPRESENTATIVE CHAMBER, January 30, 1840.

SIR: In reply to your letter of this date, I state that, after the termination of the revolutionary war, there was a delegation of officers selected from the Virginia State and continental lines of the army, and sent to Kentucky for the purpose of superintending the location and survey of the lands. These superintending officers, as they were called, did not, according to my present recollection, appoint their surveyors and commence operations until 1784. From that time until May, 1792, there was no obstruction, from Indian title or otherwise, to prevent the location and survey of military land warrants in that part of the territory assigned to the State line east of the highlands that divide the waters of the Tennessee and Cumberland rivers.

There was a large quantity of land lying east of said highlands, which became the property of Kentucky, under the compact with Virginia, in consequence of such lands remaining unlocated after the 1st of May, 1792. The precise quantity I have no means of ascertaining, but suppose it was not less than two millions of acres.

I am, sir, very respectfully, your obedient servant,

J. R. UNDERWOOD.

Hon. HILAND HALL.

Having shown, contrary to the statement of the beforementioned report, that the opportunity for satisfying State line warrants on the reservation in Kentucky was full and complete from 1784 to 1792, it seems unnecessary to pursue the subject further. It may, however, be observed, in reference to that part of the military bounty-land district in Kentucky which lies west of the beforementioned highlands, that, according to a report of Mr. Jefferson, while Secretary of State, made in February, 1793, (see State Papers, 1 Public Lands, p. 81,) the same was added to the military bounty-land district by Virginia, in anticipation of a future purchase of the Indian title by the State; and that, such purchase not having been made, the treaty of Hopewell was but the acknowledgment of an existing Indian boundary,

which imposed no obligation on the United States towards those who might desire to make locations within that part of such district. The question arose on the application to Congress of an individual who had, before the deed of cession, located a State line warrant west of said highlands, but had been prevented from taking possession of the same, as he alleged, by the provisions of the treaty of Hopewell. The claim was rejected, for the reason before stated; the holder of the warrant being deemed to have located it with the knowledge that the land was subject to the Indian title, and that it could not be made available until that title should become extinguished. But it is obvious that any questions of this sort are of no importance to the present inquiry. Had there been a deficiency of lands east of the highlands to satisfy the State line warrants, then a question as to the obligation of the United States in reference to the Indian title west of the highlands might have arisen. As there was no such deficiency, but, on the contrary, a surplus of several millions of acres, a large portion of which was among the most valuable in the State, no such question can properly be made. The holders of warrants had full opportunity of obtaining satisfaction of them, notwithstanding the treaty of Hopewell, and have no ground of complaint against the United States.

Having now considered the arguments which are urged in favor of the satisfaction by the United States of the *State line* bounty-land claims of Virginia, and ascertained them to be unfounded, it only remains for the committee to inquire whether the United States are under obligation to satisfy the bounties of the *continental line*, by other appropriations than the Ohio reservation? This inquiry will be disposed of in a few words.

This committee are not aware of any such obligation. It certainly cannot be derived from the deed of cession. That deed reserved to Virginia, for the satisfaction of her continental line bounties, the territory between the Scioto and Little Miami. It reserved nothing further; and the committee are at a loss to conceive on what authority or principle it can be pretended that such additional obligation has been imposed. By the report of the Commissioner of the General Land Office, (appendix No. 2,) it appears that there has been taken up, under continental warrants located on the Virginia reservation in Ohio, 3,495,747 acres; and that, besides this, there has been satisfied by the United States, in scrip, in both lines, the additional quantity of 1,438,022 acres; making, in the whole, 4,933,769 acres, which the United States have satisfied of these warrants. By the same report, it is ascertained that the quantity of land contained in the Ohio reservation is 3,704,484 acres, which, deducted from the whole quantity of warrants satisfied by the United States, leaves 1,249,285 acres, equivalent to a payment in money of \$1,561,606, which, it would seem, the troops of Virginia have already received, over and above the full extent of the obligation which was imposed by the deed of cession. If the committee are right in the views they have taken, (and they know not how these views can be controverted,) any further appropriation by Congress, either of land or money, to satisfy Virginia bounties of either line, would be a gratuity, which, in justice to other States of the Union, ought not to be made.

The committee do not conceive it possible that their object in the investigation they have made can be misunderstood. Nevertheless, they will take occasion to say, that nothing could be farther from their design than to disparage the services of any portion of the troops composing the revolutionary army. The services and sacrifices of the troops of Virginia, in common

with those of other States, were eminently valuable and patriotic, and none would be more ready than the committee gratefully to acknowledge and liberally to reward them. But they have conceived it proper to establish certain rules by which the validity of claims for such services may be tested, and their object has been to ascertain what rules would be most likely to do justice both to the claimants and the Government. Whether they have arrived at just conclusions, is for the House to determine.

In conclusion, then, considering that no confidence can be placed in the validity of the claims on which the Virginia bounty-land warrants now outstanding have been granted; and that, whether they be well or ill founded, there is no obligation on this Government to satisfy them; and considering that the rules of evidence on which modern allowances of commutation pay have been made are found by experience to furnish no test of the integrity of the claims; the committee submit for the consideration of the House the following resolutions, and recommend their adoption:

*Resolved*, That no further appropriation ought to be made for the satisfaction of Virginia military bounty-land warrants.

*Resolved*, That no claim for the commutation of five years' full pay, in lieu of half pay for life, ought hereafter to be allowed, unless the name of the officer for whose services the pay is claimed shall be found returned, showing him entitled thereto, on the officer's book in the Bounty Land Office; or unless such officer's title to the pay shall be shown by other equivalent documentary evidence.

APPENDIX.

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No. 1.

## FORM OF VIRGINIA LAND WARRANT.

*Land Office military warrant No. 8,658.*

To the principal surveyor of the land set apart for the officers and soldiers  
of the Commonwealth of Virginia:

This shall be your warrant to survey and lay off, in one or more surveys,  
for George W. Grayson, one of the heirs of Heaberl Smallwood, his heirs  
or assigns, the quantity of sixty-two acres of land, due unto the said George  
W. Grayson, in consideration of said Heaberl Smallwood's services for six  
years and eight months as a captain in the continental line, agreeably to a  
certificate from the Governor and Council which is received into the land  
office.

Given under my hand and the seal of the said office, this twenty-first  
[ L. s. ] day of December, in the year one thousand eight hundred and  
thirty-eight.

62 acres.

W. SELDEN, *Register Land Office.*

In pursuance of an advice of Council, I certify that this warrant has  
issued in conformity with laws of Virginia in force prior to the cession by  
that State of her western lands to Congress; and I furthermore certify, that  
no other warrant has issued from the land office of Virginia, on account of  
the services of the within-mentioned Heaberl Smallwood, except Nos. 8,653,  
8,654, 8,655, 8,656, 8,657, 8,659, 8,660, 8,661, and 8,662, issued this day,  
and that no grant has issued on this warrant.

Given under my hand and the seal of the said office, this 21st day of  
[ L. s. ] December, 1838.

W. SELDEN, *Register Land Office.*

## No. 2.

*Statement exhibiting the locations on Virginia military land warrants in Kentucky and Ohio; the number of each description of warrants which has been satisfied with scrip; the quantity of land for which scrip has been issued; and showing the quantity remaining unsatisfied, under the provisions of the acts of 30th May, 1830, 13th July, 1832, 2d March, 1833, and 3d March, 1835, up to the 1st of February, 1839.*

## Rep. No. 436.

	Warrants.	Quantity of land in warrants.	Quantity for which scrip issued.	Quantity unsatisfied.
Located on Virginia State line warrants in Kentucky, estimated acres	-	-	-	1,000,000.00
Located on Virginia continental line warrants in Kentucky, estimated acres	-	-	-	724,045.60
Land between the Little Miami and Scioto rivers, in Ohio, set apart to satisfy Virginia military land warrants of the continental line, estimated acres	-	-	-	3,704,484.00
Patented	-	-	-	3,405,747.00
Surveys on file, not yet patented	-	-	-	90,000.00
				3,495,747.00
Virginia State line and navy	1,040	915,993.06	877,797.16	Acres, *38,195.90
Virginia continental line	840	614,133.82	580,225.60	*33,908.22
Filed since September, 1835	189	161,600.00	None.	161,600.00
	2,069	1,691,726.88	1,458,022.76	233,704.12

GENERAL LAND OFFICE, February 2, 1839.

JAMES WHITCOMB, Commissioner,

\* Being 10 per cent deduction under act of 3d March, 1835.

## No. 3.

GENERAL LAND OFFICE, February 7, 1840.

SIR: Agreeably to your request in person this morning, I have the honor, herewith, to enclose a copy of my letter of the 30th ultimo, to the honorable C. C. Clay, of the Senate.

I have the honor to be, sir, your obedient servant,

JAMES WHITCOMB, Commissioner.

Hon. HILAND HALL, *House of Reps.*

GENERAL LAND OFFICE, January 30, 1840.

SIR: In answer to your letter of date the 17th instant, as to the number of outstanding military land warrants issued by the State of Virginia to the officers and soldiers of the Revolution, or their legal representatives, and the number of acres which would be required to satisfy such claims, &c., I have the honor to inform you, that, since the 1st of September, 1835, to the 25th of January, 1840 (instant,) the quantity of land in warrants issued by the State of Virginia to the officers and soldiers of the Revolution, amounts to 416,285 acres. It appears from a letter which I received yesterday from the register of the land office at Richmond, that the unsatisfied claims allowed, and on file in his office, amount to 138,819 acres; many of which claims allowed will, he states, never be satisfied, "because they have been on file for several years past. Some of them were allowed by the Executive twenty years ago; and as most of them are the claims of privates, I doubt whether the necessary documents will ever be filed in this office; without which, the warrants will never issue."

The register also states in his letter, that "as to the number of acres in warrants which may be presented hereafter, it is impossible for me to give you any satisfactory information. I am, however, clearly of the opinion, that there are not many outstanding claims."

The number of warrants now on file in this office, in anticipation of a further appropriation, embraces a quantity of 165,074 acres.

In making the apportionment of the quantity of acres appropriated by the act of 3d of March, 1835, among the warrants filed on the 1st of September, 1835, in obedience to the injunction of that act, it was ascertained that the appropriation was only adequate to satisfy ninety per cent. (excluding minute fractions) of the amount of claims filed, thereby requiring that ten per cent. should be deducted from the nominal amount of each claim. The excess of warrants so filed (being the aggregate of the ten per cent. deficit of the appropriation) is set down at 74,000 acres.

From the foregoing exhibit you will be pleased to perceive the following result, viz :

Amount, in acres, of warrants which have been issued from

1st of September, 1835, to 25th of January, 1840	-	416,285 acres.
--	---	----------------

Amount of claims allowed, and on file in the office at Rich-

mond, and for which no warrants have as yet been issued	138,819	"
---	---------	---

To which add the aforesaid deficit of the last appropriation	74,000	"
--	--------	---

Constitute an aggregate of	-	629,104 acres,
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exclusive of claims which remain to be presented to the Executive of Virginia, and of which, in the opinion of the register, "there are not many."

I have the honor to be, sir, your obedient servant,

JAMES WHITCOMB, Commissioner.

Hon. C. C. CLAY, *United States Senate.*

## No. 4.—A.

*A statement showing the amount, in acres, of Virginia military land warrants issued prior to the 1st day of May, 1792, in consideration of services performed in the revolutionary war.*

YEAR.	Line uncertain.		State line and navy.		Continental line.	
	On acts and resolutions of Assembly.	On certificates.	Line.	Navy.	On acts and resolutions of Assembly.	On certificates.
1782	-	47,666 $\frac{2}{3}$	110,133 $\frac{1}{3}$	-	10,666 $\frac{2}{3}$	126,689 $\frac{1}{3}$
3	26,400	11,000	438,488	147,731 $\frac{1}{3}$	23,000	1,615,585 $\frac{2}{3}$
4	75,500	3,266 $\frac{2}{3}$	210,254 $\frac{1}{3}$	70,032 $\frac{1}{3}$	-	737,445 $\frac{1}{3}$
5	2,666 $\frac{2}{3}$	-	10,467	5,933 $\frac{1}{3}$	-	80,044 $\frac{1}{3}$
6	2,666 $\frac{2}{3}$	-	6,766 $\frac{2}{3}$	24,333 $\frac{1}{3}$	-	53,233 $\frac{1}{3}$
7	-	-	2,600	16,300	-	26,065 $\frac{2}{3}$
8	-	4,000	9,166 $\frac{2}{3}$	32,066 $\frac{2}{3}$	-	18,366 $\frac{2}{3}$
9	-	2,666 $\frac{2}{3}$	7,966 $\frac{2}{3}$	2,866 $\frac{2}{3}$	-	6,333 $\frac{1}{3}$
1790	-	-	5,777 $\frac{1}{3}$	10,666 $\frac{2}{3}$	-	17,599 $\frac{3}{4}$
1	-	-	10,933 $\frac{1}{3}$	12,000	-	10,500
2	-	-	100	6,000	6,000	700
	107,253 $\frac{1}{3}$	68,600	812,653 $\frac{1}{3}$	327,930 $\frac{1}{3}$	39,666 $\frac{2}{3}$	2,692,563 $\frac{5}{8}$
Total	175,853 $\frac{1}{3}$ acres.		1,140,583 $\frac{2}{3}$ acres.		2,732,230 $\frac{1}{2}$ acres.	

WM. G. PENDLETON, Reg. Land Office.  
LAND OFFICE, Feb. 2, 1822.

## No. 4.—B.

A statement showing the amount, in acres, of Virginia military land warrants issued from the 1st day of May, 1792, to the 1st of February, 1822, inclusive, in consideration of services performed in the revolutionary war.

YEAR.	Line uncertain.		State line and navy.		Continental line.	
	On acts and resolutions of Assembly.	On certificates.	Line.	Navy.	On acts and resolutions of Assembly.	On certificates.
1792	-	-	6,500	-	-	25,244 $\frac{1}{3}$
3	-	-	5,333 $\frac{1}{3}$	200	-	11,766 $\frac{2}{3}$
4	-	-	6,666 $\frac{2}{3}$	2,766 $\frac{2}{3}$	-	13,373 $\frac{2}{3}$
5	-	-	3,266 $\frac{2}{3}$	300	-	32,755 $\frac{1}{3}$
6	-	-	1,300	2,766 $\frac{2}{3}$	-	46,388 $\frac{1}{3}$
7	-	-	-	-	-	41,652
8	2,666 $\frac{2}{3}$	-	676	-	-	36,370 $\frac{2}{3}$
9	-	-	-	-	-	38,645
1800	-	-	700	200	-	29,188 $\frac{5}{6}$
1	-	-	-	-	-	24,166 $\frac{1}{3}$
2	-	-	-	-	-	3,833 $\frac{1}{3}$
3	4,000	-	300	-	-	17,344 $\frac{1}{3}$
4	4,000	-	-	-	-	11,066 $\frac{2}{3}$
5	-	-	4,000	-	-	14,555
6	-	-	-	-	-	35,920
7	-	-	-	-	-	140,989 $\frac{1}{4}$
8	-	-	-	-	-	139,037 $\frac{1}{3}$
9	-	-	-	-	-	91,105 $\frac{1}{6}$
10	-	-	-	-	-	119,456 $\frac{1}{3}$
11	-	-	1,333 $\frac{1}{3}$	-	-	55,953 $\frac{1}{3}$
12	-	-	400	-	-	33,043 $\frac{2}{3}$
13	-	-	100	-	-	39,088
14	-	-	-	-	-	7,888
15	-	-	-	-	-	5,780
16	-	-	-	-	-	773 $\frac{3}{4}$
17	-	-	-	-	-	15,816 $\frac{2}{3}$
18	-	-	-	-	-	17,420 $\frac{2}{3}$
19	-	-	200	-	-	27,766 $\frac{2}{3}$
20	-	-	100	-	-	39,117 $\frac{1}{3}$
21	-	-	300	-	-	20,123
22	-	-	-	-	-	1,203 $\frac{1}{2}$
	10,666 $\frac{2}{3}$	-	31,176	6,233 $\frac{1}{3}$	-	1,136,834 $\frac{5}{6}$
Total	10,666 $\frac{2}{3}$ acres.		37,409 $\frac{1}{3}$ acres.			1,136,834 $\frac{5}{6}$ acres.

WM. G. PENDLETON, Reg. Land Office.

LAND OFFICE, February 2, 1822.

No. 4.—C.

VIRGINIA LAND OFFICE,  
Richmond, February 10, 1840.

SIR: I herewith transmit to you the statement which you desired me to make for "the Committee on Revolutionary Claims of the House of Representatives."

*A statement showing the amount, in acres, of Virginia military land warrants issued from the 1st of February, 1822, to the 9th of February, 1840, inclusive.*

Year.	State line.	State navy.	Continental line.	On certificates.
1822 - - -	100	-	36,177 $\frac{1}{3}$	
1823 - - -	100	-	34,289	
1824 - - -	200	-	60,980	
1825 - - -	-	-	200	
1826 - - -	100	-	7,133 $\frac{1}{3}$	
1827 - - -	-	-	3,866 $\frac{2}{3}$	
1828 - - -	-	-	1,840	
1829 - - -	-	-	1,589 $\frac{2}{3}$	
1830 - - -	30,844	56,279 $\frac{2}{3}$	25,577 $\frac{1}{3}$	
1831 - - -	26,589 $\frac{1}{3}$	111,277 $\frac{2}{3}$	38,752 $\frac{1}{2}$	
1832 - - -	46,713 $\frac{2}{3}$	100,141 $\frac{2}{3}$	92,483 $\frac{1}{3}$	
1833 - - -	43,644 $\frac{1}{3}$	31,157 $\frac{2}{3}$	84,016 $\frac{1}{3}$	
1834 - - -	101,601 $\frac{1}{3}$	99,165 $\frac{2}{3}$	225,228 $\frac{2}{3}$	
1835 - - -	23,879	97,730	40,599 $\frac{2}{3}$	
1836 - - -	1,900	2,966 $\frac{2}{3}$	4,231	
1837 - - -	5,700	5,333	31,809 $\frac{1}{3}$	
1838 - - -	11,029 $\frac{1}{3}$	96,722 $\frac{1}{3}$	114,289 $\frac{1}{3}$	
1839 - - -	5,495	21,212 $\frac{1}{3}$	41,053	
1840, to 10th February	-	-	400	
	297,895 $\frac{2}{3}$	621,984 $\frac{2}{3}$	844,515	

Officers for whose services warrants have issued from 1782, inclusive, to the 9th of February, 1840, to wit:

Of the continental line	-	-	-	-	-	1,030
Of the State line	-	-	-	-	-	234
Of the State and continental navy	-	-	-	-	-	268
The aggregate	-	-	-	-	-	1,532

The number of persons other than officers, for whose services military warrants have issued within the period above mentioned, is 4,959.

The Executive allowances for military services, now on file, for which no warrants have issued, amount to about 122,994 acres: of which quantity 82,627 $\frac{2}{3}$  acres are allowed for services in continental line;

18,733 $\frac{1}{3}$  acres for services in State line;  
21,633 acres for services in State navy.

122,994 acres.

Many of these allowances were made from fifteen to twenty years ago; and I think it highly probable that warrants will never be issued to satisfy them. Most of these claims are for services rendered by privates and seamen; and, as the claims are small, (in no instance exceeding 200 acres,) the parties interested will not incur the expense and trouble to obtain the warrants. For, in order to obtain one or more warrants, in any one case, the heir or heirs must obtain a duly authenticated order of some court of record, certifying that the officer or soldier died *before* or after the 1st of January, 1787, and that he died testate or intestate; if testate, there must be exhibited a certified copy of the will. And if any adult heir is dead, then *his* heir must exhibit an order of court certifying that *he* died testate or intestate; and if *he* died *testate*, a copy of *his* will must be produced *here*. The order of court must certify who are the heirs, and that they are the *only* heirs. The heirs must also make affidavit that they are the *identical* persons named in said order, and that they verily believe they are the *only* heirs. And their affidavit must be sustained by *that* of some other person (who must be certified by a justice of the peace as a man entitled to full credit) that *he* believes, from his own knowledge, or from common reputation, that they are the heirs of the deceased officer or soldier.

I am, sir, very respectfully, your obedient servant,

S. H. PARKER,  
*Register of Virginia Land Office.*

Hon. HILAND HALL.

## No. 5.

*Statement showing the number and grade of the commissioned officers of the Virginia continental line, who served to the close of the revolutionary war, or became supernumerary under the several arrangements of the army, which took place subsequent to the passage of the resolutions of Congress of the 3d and 21st October, 1780, all of whom were entitled to commutation pay and bounty lands at the close of the war.*

	Major Generals.	Brigadier Generals.	Colonels.	Lieutenant Colonels.	Majors.	Captains.	Captain Lieutenants.	Lieutenants.	Ensigns.	Cornets.	Surgeons.	Surgeon's Mates.	Aggregate.
Number of general officers -	1	4	-	-	-	-	-	-	-	-	-	-	5
Number of officers of infantry whose regiments are not designated -	-	-	9	10	13	64	2	62	10	-	-	7	180
Officers of 1st regiment infantry -	-	-	1	1	-	1	-	1	-	-	-	-	4
Officers of 2d regiment infantry -	-	-	1	-	-	4	-	4	-	-	-	-	9
Officers of 3d regiment infantry -	-	-	-	-	-	3	1	1	2	-	-	-	7
Officers of 4th regiment infantry -	-	-	-	-	-	1	2	2	6	3	-	-	14
Officers of 5th regiment infantry -	-	-	-	-	-	1	3	-	-	-	-	-	4
Officers of 6th regiment infantry -	-	-	-	-	-	3	-	5	-	-	-	-	8
Officers of 7th regiment infantry -	-	-	-	-	1	-	-	5	-	-	-	-	6
Officers of 8th regiment infantry -	-	-	-	1	-	-	-	-	-	-	-	-	1
Officers of 1st regiment dragoons -	-	-	1	-	3	6	-	13	-	4	1	1	29
Officers of 3d regiment dragoons -	-	-	1	1	1	7	-	12	-	2	1	-	25
Officers of 4th regiment dragoons -	-	-	-	1	-	2	-	1	-	-	-	-	4
Officers of 1st regiment artillery -	-	-	1	1	1	10	9	10	-	-	1	-	33
Officers of Col. Posey's regiment infantry -	-	-	-	1	1	1	-	4	2	-	-	-	9
Officers of Lieut. Col. Lee's legion -	-	-	-	1	1	2	-	3	2	1	1	-	11
	1	4	14	18	21	106	17	127	19	7	11	4	349

*Statement of the number and grade of the commissioned officers of the Virginia continental line, who became supernumerary under the several arrangements of the army made prior to the month of October, 1780, and, as such, were entitled, at the end of the war, to bounties in land alone.*

					Majors.	Captains.	Lieutenants.	Aggregate.
Officers of infantry whose regiments are not designated	-	-	-	-	2	7	1	10
Officers of 3d regiment of infantry	-	-	-	-	2	2	3	5
Officers of 4th regiment of infantry	-	-	-	-	1	1	3	3
Officers of 2d regiment of infantry	-	-	-	-	1	4	1	2
Officers of 5th regiment of infantry	-	-	-	-	2	1	1	5
Officers of 6th regiment of infantry	-	-	-	-	1	3	3	5
Officers of 8th and 11th regiments of infantry	-	-	-	-	2	17	13	32

*Statement of the number and grade of the officers of the Virginia continental line returned as having been "killed in action," the heirs of whom are entitled to bounty lands.*

			Brigadier General.	Lieut. Colonels.	Major.	Captains.	Capt. Lieutenants.	Aggregate.
General officers	-	-	1					1
Officers of artillery	-	-	1	1	1	1	1	1
Officers of 1st regiment of infantry	-	-	1	1	1	1	1	1
Officers of 4th regiment of infantry	-	-	1	1	1	1	1	1
Officers of 8th, 9th, and 11th regiments of infantry	-	-	1	1	2	2	1	3
Officers of regiments of infantry not designated	-	-	1	2	4	2	1	3
			1	2	1	4	2	10

*Statement of the number and grade of the non-commissioned officers, musicians, and privates of the Virginia continental line, who enlisted for "during the war," and served until its termination; to which is added the number of non-commissioned officers and privates belonging to the State of Virginia, who served under enlistments for "during the war," and to the end thereof, in the first partisan legion, commanded by Brigadier General Armand, and who were credited to the State of Virginia as a part of the required quota of that State to the continental battalions; all of whom are embraced by the resolutions of Congress providing bounties in land.*

		Sergeants.	Corporals.	Musicians.	Privates.	Aggregate.
Of artillery	-	6	3	9	76	94
Of dragoons	-	13	13	1	138	165
Of infantry	-	29	19	20	371	439
Of Lee's legionary corps	-	5	4	1	64	74
Armand's first partisan legion, (the grades of the men not designated)	-	-	-	-	136	136
		53	39	31	785	908

#### *Recapitulation.*

Number of officers returned as being entitled to commutation pay and bounty lands	-	-	-	-	-	349
Number of supernumerary officers returned as being entitled to bounty lands alone	-	-	-	-	-	32
Number of officers returned as having been "killed in action," heirs entitled to bounty lands	-	-	-	-	-	10
						391
Number of non-commissioned officers, musicians, and privates re- turned as entitled to bounty lands	-	-	-	-	-	908

DEPARTMENT OF WAR,  
*Bounty Land Office, February 6, 1839.*

SIR: In answer to the several interrogatories submitted in the accompanying letter of the Hon. Hiland Hall, chairman of the select committee appointed by a resolution of the House of Representatives of the 24th ultimo, I have the honor to report, that there are in this office two lists, exhibiting

the names and rank of the officers of the Virginia continental line : one of which is a general list, and purports to show the names and rank of *all* the officers of the continental lines of the several States, distinguishing between those who acquired a right to the commutation of half pay and bounty lands, and those who, in consequence of their becoming supernumerary prior to the passage of the resolutions of Congress of October 3d and 21st, 1780, were entitled to bounty lands alone, at the close of the war ; this list also comprises the names and rank of such officers as were "killed in action," the heirs of whom were promised bounty lands. Of the number, rank, &c., of which these three classes were composed, I beg leave to refer to the three first statements hereto annexed, the same being carefully drawn from, and founded upon, the lists first above referred to. The other list is distinct, and embraces the names and rank of the officers, non-commissioned officers, musicians, and privates, of the Virginia continental line alone. As it regards the *officers* of that line, there is scarcely any disagreement between the two lists, worthy of note. For the number of men composing the rank and file of the Virginia continental line, who acquired a right to bounty lands under the resolutions of Congress providing that bounty, I respectfully refer to the fourth, and concluding statement, hereto subjoined.

The general list, above referred to, was, as I understand, prepared by, and is in the handwriting of, Joseph Howell, who, it appears from the journals of the old Congress, was elected commissioner of army accounts, on the 28th August, 1788, and subsequently appointed accountant of the War Department.

In regard to the other, and separate list of the Virginia continental line, it appears by the act of Congress, approved the 10th August, 1790, entitled "An act to enable the officers and soldiers of the Virginia line on continental establishment to obtain titles to certain lands lying in the military reservations in Ohio," that the then Secretary of War was required to furnish said list to the Executive of the State of Virginia ; and that it was furnished in a short time thereafter, there is no reason to doubt. By the conflagration of the War Office, in the year 1800, most of the revolutionary records filed therein were consumed, or otherwise lost or destroyed ; hence, it became necessary, in order to facilitate the examination of Virginia claims, that an authenticated copy of said list should be procured from the Executive of that State ; it is, therefore, a matter of record on the books of the department, that the same was applied for on the 17th May, 1811, and transmitted to the department on the 31st of the same month and year.

In reference to the third interrogatory contained in the enclosed letter, I have to state that there are no pay or muster rolls in this office, showing the names of the officers of the Virginia line who "died, resigned, or otherwise lost their places in the army," except in regard to those who quitted the service, as the necessary consequence of their becoming *supernumeraries*, as shown by the annexed statements.

Having remarked fully, and perhaps satisfactorily, in reference to the authenticity of the lists in question, and presuming that the spirit of the inquiries on the subject applies also to the extent of the reliance placed on them by the department, I have to state, as the result of my examinations, that the names of many officers of the Virginia, as well as of the other continental lines, were omitted to be placed on said lists ; inasmuch as the registers of issues in this office show that many land warrants were granted to, or in right

of officers whose names do not appear on either of the lists in question, and many of those grants were made prior to the catastrophe that occasioned the destruction of the records in the year 1800, and also many more in each succeeding year since that period. Hence, in the adjudication of the claims for land bounty, it is manifest that the department resorted to other sources of information, even at that early day; and, subsequently, to other satisfactory evidence, derived from authentic rolls and records, furnished at various periods by the several States, together with the testimony of individuals.

Very respectfully, your obedient servant,

WILLIAM GORDON.

Hon. SECRETARY OF WAR.

No. 6.

*Excess of land granted to officers of the continental line.*

The number of non-commissioned officers and privates of the Virginia continental line, who were entitled to bounty lands from that State by having served to the end of the war, is known from actual returns, and is stated in the letter of Mr. Gordon, clerk of the United States Bounty Land Office. (Appendix No. 5.)

From that statement, it can be ascertained how much land was due from Virginia to the men who served to the end of the war. Thus—

92 non-commissioned officers, at 400 acres, is	-	36,800 acres.
816 musicians and privates, at 200 acres, is	-	163,200 "
Whole amount of bounty to the war men	-	<u>200,000</u> acres.

The three years' non-commissioned officers and privates were entitled to precisely one-half the bounty of the during-the-war men.

If we suppose the three years' men to have been double the number of the men who enlisted for the war, their bounty will amount to the same number of acres. Thus—

	Acres.
908 non-commissioned officers and privates, as above, for the war	200,000
1,816 " do. for 3 years	200,000
<u>2,724</u>	<u>400,000</u>

Now, the whole quantity of land which has been granted by Virginia for services in the continental line, is ascertained as follows:

	Acres.
Warrants located in Kentucky, (appendix No. 2)	724,045
Warrants located in Ohio, (appendix No. 2)	3,495,747
Warrants for which scrip issued up to September, 1835, (appendix No. 2)	614,133
Warrants issued since January 1, 1836, (appendix No. 4)	191,782
Claims allowed, but warrants to issue, (appendix No. 4)	82,627
Making, in the whole	<u>5,108,334</u>

	Acres.
Brought forward	*5,108,334
Deduct bounty lands due non-commissioned officers and privates	400,000
Leaves to be appropriated to officers	<u>4,708,334</u>

The quantity of land to which a regiment of officers is entitled, according to the arrangement under the resolution of Congress of May 27, 1778, may be ascertained as follows:

1 Colonel	6,666 $\frac{2}{3}$ acres.
1 Lieutenant colonel	6,000 "
1 Major	5,333 $\frac{1}{3}$ "
6 Captains, at 4,000 each	24,000 "
9 Lieutenants, at 2,666 $\frac{2}{3}$ each	24,000 "
9 Ensigns, at 2,666 $\frac{2}{3}$ each	24,000 "
1 Surgeon	6,000 "
1 Surgeon's mate	4,000 "

Making 100,000 acres, to which the 29 officers of each regiment, for three years' service, would be entitled. The staff officers, except surgeons and surgeon's mates, were not entitled to land from Virginia. The infantry of the Virginia line was arranged in September, 1778, with the foregoing number of officers to each regiment.

If we divide the number of acres, 4,708,334, appearing by the foregoing statement to be remaining for the officers after the claims of those below them in rank had been satisfied, by 100,000, the number of acres to which each regiment of officers would be entitled, we shall have 47 as the number of regiments which such remaining quantity of land would be sufficient to satisfy.

But, again: let us suppose that all the persons who have received warrants from Virginia, as stated by the register of the Virginia land office, (appendix No. 4,) 6,491 in number, were actually entitled to bounty lands, and make a calculation on that basis:

Of the 6,491, the number of those not officers was	4,959
Deduct one-fourth, as belonging to the State line and navy	1,239
Number not officers of the continental line	<u>3,720</u>
Of these there were, during the war men	908
Leaving of 3 years' men	<u>2,812</u>

These men would be entitled to land as follows:

	Acres.
908 non commissionned officers and privates, as before shown	200,000
320 non-commissioned officers for 3 years, at 200 acres	64,000
2,492 privates, at 100 acres each	249,200
3,720 non-commissioned officers and privates entitled to	<u>513,200</u>

\* There is a discrepancy between the quantity of land allowances, as shown by the returns of the General Land Office and those from the register of the land office at Richmond, which the committee are unable to account for. By the returns from the register of Virginia, (appendix No. 4,) the quantity of continental warrants, including those which are put down as uncertain, is 4,972,059 acres, being 136,275 acres less than the quantity shown by the Commissioner of the General Land Office. The difference is not, however, sufficiently great to affect the argument, and has not, therefore, been noticed in the body of the report.

Now for the result :

	Acres.
Whole number of acres of warrants	5,108,334
Deduct bounties of 3,720 men, as above	513,200
Leaves to be appropriated to officers	4,595,134

If this number of acres be divided by the number to which each regiment would be entitled, it shows sufficient land to have been granted to officers to supply over 45 regiments.

No. 7.—A.

*Depreciation pay.*

[EXTRACT.]

AUDITOR'S OFFICE, VIRGINIA,  
February 12, 1840.

SIR : I know of no other channel through which the officers of the Virginia State line and the Virginia continental line could have received their depreciation pay, from January, 1777, to December 31, 1781, except by application to the auditors, in conformity with the act of November, 1781 ; unless you consider as a deviation from that mode the fact, that the Legislature has, in two instances at least, (perhaps in others,) authorized the auditor to settle claims of that description, which, from the lapse of time, he would not have done without such legislative sanction. The cases to which I refer are those of Robert H. Harrison and John Nicholas, of the continental line.

I am, very respectfully, your obedient servant,

JAS. E. HEATH,  
*Auditor of Virginia.*

Hon. HILAND HALL.

No. 7.—B.

AUDITOR'S OFFICE, VIRGINIA,  
February 28, 1840.

SIR : I have duly received yours of the 24th instant.

There is in this office a list of the officers and soldiers of the Virginia continental line, and also of the Virginia State line and navy, to whom certificates were issued for their depreciation pay under the act of November, 1781. I think I informed you, on another occasion, that, besides the officers whose names are recorded on these lists, John Nicholas and Robert H. Harrison received their depreciation under special acts of the Virginia Legislature ; and it is *probable* that some few others may have been paid in certificates many years since, under special acts, and their names not recorded. With these exceptions, however, I believe these lists contain the names of all the officers with whom settlements were made.

Very respectfully, your obedient servant,

JAS. E. HEATH

Hon. H. HALL.

## No. 8.

*List of the commutation acts passed since the 4th of June, 1794.*

Date of acts.		Amount al- lowed.
1794, June 4	Lewis Dubois, colonel 5th regiment New York	\$7,520 00
1803, April 22	Philip Turner, surgeon -	2,400 00
1816, April 29	Representatives of Alexander Hamilton, lieutenant colonel, including interest	10,609 64
1828, May 23	Alexander Garden, lieutenant -	1,600 00
24	Caleb Stark, lieutenant -	1,600 00
26	Philip Slaughter, captain Virginia line	\$2,400 00
1833, March 2	Do. interest -	6,557 20
1830, May 26	Mountjoy Bayly, captain Maryland line	8,957 20
28	James Barnett, lieutenant Virginia line	2,400 00
1833, March 2	Do. interest -	3,230 30
1830, Mar. 29	Representatives of Robert H. Harrison, lieutenant colonel Maryland	4,830 30
1832, July 14	Representatives of Robert H. Harrison, interest	10,854 58
1830, May 29	Representatives of William Price, lieutenant 1st Virginia regiment	3,600 00
1833, March 2	Representatives of William Price, interest	1,600 00
1830, May 28	Thomas Blackwell, captain Virginia line	3,230 30
1832, May 25	Representatives of Wm. Vawters, lieutenant, including interest, Virginia line	4,830 30
25	John Roberts, major Virginia line, including interest, Virginia	2,400 00
25	Representatives of Reginald Hilary, lieutenant, Maryland, including interest, 1st regiment Maryland troops	4,821 45
25	Representatives of George Baylor, colonel of cavalry, including interest, Virginia	9,040 23
25	Representatives of Wm. Carter, surgeon, including interest, Virginia	4,821 45
Mar. 25	Edmund Brooke, lieutenant, including interest, Virginia	16,950 44
June 15	Representatives of Samuel J. Axson, surgeon, including interest, South Carolina	10,848 29
15	John Knight, surgeon's mate, including interest	6,026 82
July 14	J. J. Jacobs, lieutenant, including interest, Maryland line	10,850 86
14	Representatives of Thomas Davenport, captain, including interest, Georgia line	7,233 90
1833, Feb. 9	Representatives of John Thornton, colonel, including interest, Virginia	4,824 27
March 2	Representatives of John P. Wagner, lieutenant, including interest, Georgia	7,236 38
2	Thomas Triplett, captain, including interest, Virginia line	13,594 82
2	John Thomas, captain Virginia line, including interest, Virginia	7,245 45
2	Peter Foster, lieutenant Virginia line, including interest, Virginia	7,245 45
2	James Gibbon, captain, including interest, Pennsylvania	4,830 30
2	Representatives of Isaac Ledyard, surgeon, including interest	7,245 45
1834, June 30	Ephraim Whittaker, captain	14,184 66
30	Thomas Minor, captain, Virginia	2,400 00
30	Representatives of James Craine, captain Virginia line	2,400 00
30	Representatives of John Taylor, lieutenant Virginia line	1,600 00
30	Representatives of Joseph Torrey, major Hazen's regiment	3,000 00
30	Representatives of Everard Meade, captain Virginia line	2,400 00
30	Representatives of Wm. Royal, captain Virginia line	2,400 00
30	Robert Wilmott, lieutenant Maryland line	2,000 00
30	Representatives of Wm. Teas, cornet Virginia line	1,600 00

## No. 8—Continued.

Date of acts.		Amount al- lowed.
1834, June 30	Representatives of George Hurlbut, captain Sheldon's regiment Connecticut line -	\$3,000 00
30	Representatives of Enos Granniss, captain Colonel Baldwin's regiment of artificers -	2,000 00
30	Representatives of Buller Claiborne, captain Virginia line -	2,400 00
30	John Emerson, lieutenant Virginia -	1,600 00
30	Representatives of Thomas Wallace, lieutenant Virginia line -	1,600 00
1836, June 23	Representatives of Absolom Baird, surgeon regiment of artificers -	2,400 00
July 28	Representatives of Robert Jouett, lieutenant Virginia line -	1,600 00
July 2	Representatives of David Hopkins, captain South Carolina line -	2,400 00
2	Representatives of Thornton Taylor, ensign Virginia line -	1,200 00
1838, May 25	Representatives of James Witherell, ensign Massachusetts line -	1,200 00
June 12	John Spitfahom, lieutenant Virginia line -	1,200 00
12	Representatives of Wm. Cogswell, surgeon -	2,400 00
12	Representatives of Wm. Rusworm, lieutenant North Carolina line -	1,066 67
12	Moses Van Campen, lieutenant Pennsylvania line -	1,600 00
12	Samuel Warren, captain South Carolina 5th regiment -	2,400 00
12	Representatives of Henry Morfit, lieutenant Pennsylvania line -	1,600 00
13	Representatives of Daniel Duval, captain Virginia line -	3,000 00
13	Representatives of Patrick McGibony, lieutenant North Carolina -	1,600 00
July 7	Representatives of Wm. Johonnott, surgeon -	7,200 00
7	Representatives of Charles Snead, captain of infantry, Virginia line -	2,400 00
7	Representatives of John B. Ashe, lieutenant colonel 1st North Carolina regiment -	3,600 00
7	Joseph Prescott, surgeon -	3,600 00
7	Representatives of Timothy Feely, lieutenant Virginia line -	1,600 00
7	Representatives of Daniel Williams, captain North Carolina 6th regiment continental line -	2,400 00
7	Representatives of William H. Smith, acting surgeon -	2,400 00
	Total -	277,495 22

TREASURY DEPARTMENT,  
Register's Office, February 2, 1839.

T. L. SMITH, Register.

## No. 9.

[From reports of the Secretary of War, State Department, Lib. 3, No. 149.]

*Acceptance of the commutation by the Virginia line.*

At a meeting of the officers of the Virginia line who are arranged to be called into service as occasion may require, Fredericksburg, May 14, 1783:

A resolution of Congress of the 22d of March last, proposing a commutation of five years' full pay, in lieu of the half pay for life formerly promised, being read; after mature deliberation, the meeting unanimously agree to accept of the five years' pay, on the terms mentioned in the said resolution.

JOHN GREEN, Colonel 6th Virg. Reg.,  
And agent appointed by the officers to transmit  
their opinion to the Commander-in-chief.

FREDERICKSBURG, May 15, 1783.

At a meeting of the supernumerary and retiring officers of the Virginia line who are entitled to half pay for life, promised by Congress, as resolved by them the 22d day of March last, proposing a commutation of the half pay by the payment of five years' full pay in lieu thereof, being read; after mature deliberation, the meeting unanimously agree to accept of the five years' full pay on the terms proposed by the said resolution. In confirmation whereof, the said officers have signed their names hereto.

A. BUFÖRD, Colonel 11th Reg.,  
And agent appointed by the officers to transmit  
their opinion to Congress.

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No. 10.—A.

WAR DEPARTMENT, February 8, 1839.

SIR: I respectfully transmit the accompanying reports of the Third Auditor, the Commissioner of Pensions, and the officer in charge of the Bounty Land Office, in reply to your letter of the 31st ultimo, inquiring whether there are in this department lists of the officers, non-commissioned officers, and privates of the Virginia continental line of the army of the Revolution, who became entitled to commutation and bounty land; and whether there is a list, also, of the officers of the continental line who died, resigned, or otherwise lost their places in the army, &c. &c.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. HILAND HALL, Chairman of Select Committee  
on the subject of Virginia claims, H. R.

[NOTE.—For statement from Bounty Land Office, see appendix No. 5.]

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No. 10.—B.

TREASURY DEPARTMENT,  
Third Auditor's Office, February 5, 1839.

SIR: In his letter of the 31st ultimo, to you, (and which has been referred to me for a report,) the Hon. Hiland Hall, as chairman of the select committee, appointed in obedience to a resolution of the House of Representatives of the 24th of January, 1839, on the subject of Virginia claims, asks for information on the following points, to wit:

1. "Whether there is, in the War Department, a list of the names of the officers of all the regiments of the continental army of the Revolution, who, as having served to the end of the war, or as having become supernumerary under the several arrangements of the army, were entitled to bounty land and commutation pay; and if so, at what period, for what purpose, and from what materials, is such list known or supposed to have been made?"

2. "Whether there is, in the War Department, another ancient list (corresponding with the former, so far as relates to the officers) of the officers, non-commissioned officers, and privates of the Virginia continental line;

and if so, at what period, and for what purpose, is such list supposed to have been made?"

3. "Whether there is any list remaining of the officers of the several regiments of the continental line, who died, resigned, or otherwise lost their places in the army; and if not, whether the muster and pay rolls of the army, or other authentic materials from which such list could be made, are now in existence?"

4. "A statement of the number of officers of each grade, in each branch of the service, and of the number of non commissioned officers and privates, belonging to the Virginia continental line, who are returned on the lists before mentioned as entitled to bounty land; and, also, a statement of the number of officers of each grade, in each branch of the service, who appear from said lists to be entitled to commutation pay."

Understanding the first of the foregoing inquiries to relate to a book on file in the Bounty Land Office, known as "the officer's book," I have the honor to state that said book is in the handwriting of Joseph Howell, Esq., who was assistant paymaster general and commissioner of army accounts, until 1788, when he succeeded to the office of commissioner, upon the death of Mr. Pierce; and was subsequently appointed accountant of the War Department, in which latter capacity he continued until the year 1795. The list, or officer's book, in question, I have always understood and believed was prepared after the close of the revolutionary war, and from facts ascertained from the muster rolls and other evidences of service, in the course of settling the officers' accounts for their arrearages of pay, &c., that remained due at the close of the war. It is presumed that the names of officers were added to said list or book, in making settlements under the laws suspending the act of limitation. Whether said list or book contains the name of every officer of all the regiments, or corps, of the continental army of the Revolution, who were then considered entitled to bounty land and commutation pay, I cannot say. The purpose for which said list or book was prepared, it is supposed, was to ascertain what officers were entitled to bounty land; and it may also have been designed as a check against double payments of commutation, &c.

It is understood that Mr. Gordon, of the Bounty Land Office, will answer Mr. Hall's second inquiry. Of the list referred to in that inquiry, I have no knowledge beyond the fact that I have been informed that such a list was furnished to the Secretary of War, in the year 1811, by the Executive of Virginia.

In regard to Mr. Hall's third inquiry, I have to state that I have no knowledge of there being in existence any list "of the officers of the several regiments of the continental line, who died, resigned, or otherwise lost their places in the army," except such as appear on the list referred to in the first inquiry. Although there are a number of old muster and pay rolls of the revolutionary army still on file in this office, yet they are so imperfect, (their connexion being broken by many of them having been lost by the burning of the War Office, in the year 1800, and the public buildings, in the year 1814,) that I am satisfied that it would be wholly impracticable to make from them any thing like a perfect list "of the officers who died, resigned, or otherwise lost their places in the army."

The report of Mr. Gordon, it is presumed, will furnish all the information sought by Mr. Hall's fourth and last inquiry. All the officers who shall appear on the statement which Mr. Gordon will furnish, in reply to

that inquiry, as having become supernumerary subsequent to the resolutions of Congress of October, 1780, (granting half pay for life,) or as having served to the end of the war, were entitled to commutation pay.

Mr. Hall's letter is herewith returned.

With great respect,

PETER HAGNER, Auditor.

Hon. J. R. POINSETT,  
*Secretary of War.*

No. 10.- C.

WAR DEPARTMENT,  
*Pension Office, February 4, 1839.*

SIR: In answer to the letter of the Hon. Hiland Hall, of the 31st ultimo, a copy of which is enclosed, I have to inform you that there is not in this office "a list of the names of the officers of all the regiments of the continental army of the Revolution, who, as having served to the end of the war, or as having become supernumerary under the several arrangements of the army, were entitled to bounty land and commutation pay."

There are in this office lists of the officers, non commissioned officers, and privates, of the Virginia continental line; but they do not purport to be lists of those who were entitled to commutation pay or bounty land. The lists are—

1. "A list of the officers' names who received certificates for one and two years' advanced pay, agreeably to the act of Assembly passed November session, 1781."

2. "A list of officers of the Virginia line on continental establishment, who have received certificates for the balance of their full pay, agreeably to an act of Assembly, passed November session, 1781."

3. "A list of soldiers of the Virginia line on continental establishment, who have received certificates for the balance of their full pay, agreeably to an act of Assembly passed November session, 1781."

These lists were made between the years 1781 and 1790, so far as I can learn; but for what purpose they were made does not appear.

4. "A list of officers made by the board of Virginia continental officers, under orders from Baron Steuben, in February, 1781."

This list gives the names of some who were supernumerary; but it contains no information as to the names or number of those who served to the end of the war, but principally a list of those who were retained under the arrangement made in 1781. This list was made in 1781, as a part of the report of the board of officers, more for the use of those who were retained in the service, than for the purpose of showing who had left the army under resolutions of Congress.

5. "A list of officers, made agreeably to the arrangement of December, 1782."

This gives a list of the names of some who desired to retire with the emoluments of officers retiring under the acts of Congress of the 3d and 21st October, 1780, as well as a list of those who made their election to supply the places of vacant ensigncies, retaining their rank and pay, agreeably to the resolution of Congress of the 11th July, 1782. There is a list of the

redundant junior officers of each grade. The two last lists were made in 1782; for what purpose, I am unable to say.

6. "A list of non-commissioned officers and soldiers of the Virginia line on continental establishment, whose names appear on the Army Register, and who have not received bounty land."

7. "A list of officers of the Virginia continental and State lines, and State navy, whose names appear on the Army Register, and who have not received land for revolutionary services at all, or not in the characters in which they there appear."

8. "A list of officers of the army and navy, who have received lands from Virginia for revolutionary services, the quantity received, when received, the time of service for which each officer received land, &c., down to September, 1833."

The three last-mentioned lists, prepared since 1830, are printed, and were published by order, I understand, of the Virginia Legislature; for what particular purpose I am unable to say.

The second inquiry, "Whether there is another ancient list (corresponding with the former, so far as relates to the officers) of the officers, non-commissioned officers, and privates, of the Virginia continental line; and if so, at what period, and for what purpose, is such list supposed to have been made?" is answered in the foregoing statement.

To the third inquiry, "Whether there is any list remaining of the officers of the several regiments of the continental line who died, resigned, or otherwise lost their places in the army; and if not, whether the muster and pay rolls of the army, or other authentic materials from which such list could be made, are now in existence?" I reply, that there is no complete list of such officers, nor can I say positively whether there are in existence the necessary materials for forming such a list. The Washington Papers, which were purchased some years since, and deposited in the Department of State, contain much information on the subject; and some information might also be obtained from the muster rolls in this office. But I cannot give it as my opinion that a perfect list could be made from such materials.

Not possessing the necessary information, it is not in my power to furnish "a statement of the number of officers of each grade in each branch of the service, and of the number of non-commissioned officers and privates belonging to the Virginia continental line who are returned as entitled to bounty land;" nor is it in my power to make "a statement of the number of officers of each grade in each branch of the service who appear to be entitled to commutation pay."

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS,  
*Commissioner of Pensions.*

Hon. J. R. POINSETT, *Secretary of War.*

#### No. 11.

CUMBERLAND OLD COURT-HOUSE,  
September 2, 1782.

The following is a list of the officers of the Virginia line, who have been killed, invalidated, resigned, superseded, &c., since the Chesterfield arrangement, in February, 1781, and not included in a late arrangement at this place in May last.

*Killed.*

Lieutenant Colonel Campbell,  
 Captain A. Wallace,  
 Captain C. Oldham,

Ensign John Giles,  
 Lieutenant Jonathan Wilson,  
 Lieutenant Philip Huffman.

*Invalided.*

Captain John Spotswood,  
 Captain Joseph Scott,

Captain Thomas Thweett,  
 Captain Robert White.

*Resigned.*

Captain Robert Bell,  
 Captain Archibald Denholm,  
 Captain James Craine,  
 Captain James Culbertson,  
 Captain Nathan Lamme,  
 Captain Robert Vance,  
 Captain George Berry,  
 Lieutenant Thomas Burford,  
 Lieutenant Elisha King,  
 Lieutenant John Townes,  
 Lieutenant Andrew Lewis,  
 Lieutenant John McDowell,  
 Lieutenant Robert Jouett,  
 Lieutenant Henry Boyer,

Ensign George Hite.

Lieutenant William Baylis,  
 Ensign William McGuire,  
 Ensign John Spitfathom,  
 Ensign Andrew Hayes,  
 Ensign Spencer Morgan,  
 Ensign William Conner,  
 Ensign Thomas Wallace,  
 Ensign William Ball,  
 Captain Robert Higgins,  
 Lieutenant Charles Erskine,  
 Lieutenant George Blackmere,  
 Ensign —— Drew,  
 Ensign —— Kellery,  
 Ensign James Green,

*Reseeded [Superseded?]*

Captain Francis Minnis,  
 Captain Thomas Ransdell,  
 Captain Charles Snead,  
 Captain Severn Teagle,  
 Captain Willis Reddick,  
 Lieutenant Philip Coatney.  
 Captain William R.—[supposed to be Rogers,] in the year 1778.  
 Captain Timothy Feely.

Lieutenant Robert Livingston,  
 Lieutenant Benjamin Ashby,  
 Lieutenant Robert Foster,  
 Lieutenant John Barns,  
 Ensign John Carr,  
 Ensign William Scott.

[This corner of the original paper is lost, except what appears above,  
 beginning with the words "Captain William R."]

## No. 12.

*Copy of the deed of cession from Virginia to the United States, executed  
 March 1, 1784.*

*To all who shall see these presents :*

We, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe,  
 the underwritten delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting :

Whereas the General Assembly of the Commonwealth of Virginia, at their sessions begun on the twentieth day of October, one thousand seven hundred and eighty-three, passed an act, entitled "An act to authorize the delegates of this State, in Congress, to convey to the United States in Congress assembled all the right of this Commonwealth to the territory northwestward of the river Ohio," in these words following, to wit :

"Whereas the Congress of the United States did, by their act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several States in the Union having claims to waste and unappropriated lands in the western country, a liberal cession to the United States of a portion of their respective claims, for the common benefit of the Union : And whereas this Commonwealth did, on the second day of January, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said Commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession : And whereas the United States in Congress assembled have, by their act of the thirteenth of September last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof ; which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal, for the common benefit and support of the Union :

*"Be it enacted by the General Assembly,* That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, subject to the terms and conditions contained in the before-recited act of Congress of the thirteenth day of September last ; that is to say, upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit ; and that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States. That the necessary and reasonable expenses incurred by this State in subduing any British posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States : and that one commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be com-

prised within the intent and meaning of the act of Congress of the tenth of October, one thousand seven hundred and eighty, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighboring villages, who have professed themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then Colonel (now General) George Rogers Clarke, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskies and St. Vincent's were reduced, and to the officers and soldiers that have been since incorporated into the said regiment; to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose; and to be afterwards divided among the said officers and soldiers, in due proportion, according to the laws of Virginia. That in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops, in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the beforementioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed, unless three of them, at least, are present in Congress."

And whereas the said General Assembly, by their resolution of June sixth, one thousand seven hundred and eighty-three, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said Commonwealth in Congress for one year, from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said General Assembly of Virginia, before recited, and in the name and for and on behalf of the said Commonwealth, do, by these presents, convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes, and on the conditions, of the said recited act.

In testimony whereof, we have hereunto subscribed our names and affixed our seals, in Congress, the first day of March, in the year of our Lord one thousand seven hundred and eighty-four, and of the independence of the United States the eighth.

TH. JEFFERSON,	[L. S.]
S. HARDY,	[L. S.]
ARTHUR LEE,	[L. S.]
JAMES MONROE,	[L. S.]

Signed, sealed, and delivered in presence of

CHA. THOMPSON,
HENRY REMSEN, jr.,
BEN. BANKSON, jr.

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### No. 13.

HOUSE OF REPRESENTATIVES, January 21, 1840.

SIR: On Munsell's large map of Kentucky, published in 1818, the boundary lines of the territory set apart by Virginia to satisfy her revolutionary military land warrants are laid down. The whole tract includes all the land in Kentucky lying south and west of Green river, and a line running from the source of the same, a southeast course, to the Cumberland mountains.

The division lines which were made by the superintendents of surveys, between the continental and State lines of troops, are also marked on the map; the land assigned to the continental line being bounded by the rivers Ohio, Green, and Big Barren, and a line running parallel with the south line of the State, to the highlands between the Cumberland and Tennessee rivers, and along the said highlands to the Ohio.

I wish you to ascertain and inform me the quantity of land which appears from said map to have been assigned to the troops of the continental line; the quantity assigned to the troops of the State line; and, also, how much of the land assigned to the State line lies east, and how much west, of the said highlands that divide the Tennessee from the Cumberland river.

I am, sir, very respectfully, your obedient servant,

HILAND HALL.

DAVID H. BURR, Esq.,

*Draughtsman House of Representatives.*

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WASHINGTON, January 22, 1840.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, asking for an estimate of the quantity of land "set apart by Virginia to satisfy her revolutionary military land warrants."

According to Munsell's map of Kentucky, to which you

refer, it appears that the territory assigned to the troops of the continental line contains - - - - - 3,520,000 acres.

That the territory assigned to the troops of the State line

east of the highlands that divide the Tennessee from the		
Cumberland river contains	-	4,350,000 acres
And west of the said highlands	-	1,858,000 "
Being for the State line troops	-	6,208,000 acres.
Total for State and continental lines	-	<u>9,728,000</u> acres.

I am, with much respect, your obedient servant,

DAVID H. BURR,  
*Draughtsman House of Representatives.*

Hon. HILAND HALL,  
*House of Representatives.*

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#### No. 14.

##### *Copy of Colonel Taylor's commission in the convention guards.*

The Commonwealth of Virginia to Francis Taylor, Esq., greeting:

Know you, that, from the special trust and confidence which is reposed in your patriotism, fidelity, courage, and good conduct, you are, by these presents, constituted and appointed *colonel of the regiment of volunteers for guarding the convention troops at Charlottesville.* You are, therefore, carefully and diligently to discharge the duty of *colonel* of the *said regiment*, by doing and performing all manner of things thereunto belonging; and you are to pay a ready obedience to all orders and instructions which, from time to time, you may receive from the Governor or executive power of this State for the time being, or any of your superior officers, agreeable to the rules and regulations of the convention or General Assembly. All officers and soldiers under your command are hereby strictly charged and required to be obedient to your orders, and to aid you in the execution of this commission, according to the intent and purpose thereof.

Witness Patrick Henry, Esquire, Governor or Chief Magistrate of the Commonwealth, at Williamsburg, this *fifth* day of *March*, in the *third* year of the Commonwealth, Anno Domini 1779.

P. HENRY.

[NOTE.—For the original commission, a printed blank for a commission in the militia is used; the words written with a pen being printed in the above copy in *italics*. In the place of the foregoing words, "*of the regiment of volunteers for guarding the convention troops at Charlottesville,*" the printed words "*of militia in the county of*" are stricken out. So, also, in the place of the words "*said regiment,*" above printed in *italics*, the word "*militia*" was printed and stricken out.]

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#### No. 15.

It has been suggested that the great number of modern allowances of Virginia land claims by that State furnishes no ground of suspicion against

the validity of the claims, because it is said that the modern allowances by the Government of the United States to the troops of the continental army, which are admitted to be good, are equally large. The suggestion is believed not to rest either on fact or sound argument.

By resolutions of the old Congress, the officers and soldiers of the continental army engaging for and serving during the war, were promised certain land bounties; and claims for such bounties have been allowed from time to time, as they were presented and established, up to the 1st of January last. The following letter from the Clerk of the Bounty Land Office will show the whole number of allowances by the United States, together with the number made since September, 1828, at which time a publication of the names of those entitled to the bounty was made by order of the Senate of the United States:

DEPARTMENT OF WAR,  
*Bounty Land Office, April 7, 1840.*

SIR: In answer to the inquiries submitted in yours of the 4th instant, I have the honor to inform you, that it appears by the registers of issues of military bounty-land warrants, on file in this office, commencing in the year 1789, and continued until the 1st of January, 1840, that there have been granted, of such warrants, two thousand seven hundred and sixty-two, to commissioned officers of the line, and of the hospital and medical staff of the revolutionary army; and that, within the periods above mentioned, there has been granted, of similar warrants, nine thousand six hundred and forty-eight, to the non-commissioned officers, musicians, and privates of the same army.

In answer to your inquiry as to "what number of such commissioned officers, whose names were returned as entitled to the bounty referred to above, have received their warrants for the same since September, 1828," I have to state, that, of those so returned, one hundred and fifty six have received the warrants to which they or their heirs were entitled; and to your request for "the same information in regard to the rank and file of the army," I have to state, that the number of warrants issued and delivered to the rank and file aforesaid, since the 30th September, 1828, is found to be six hundred and thirty-four; and that, of this number, six hundred and fifteen are returned on the records as entitled.

Very respectfully, your obedient servant,

WM. GORDON.

Hon. HILAND HALL,  
*House of Representatives.*

From the numbers stated in this letter, it will be found that the allowances of land bounties to *officers*, by the United States, since September, 1828, have been  $5\frac{1}{2}$  per cent. on the whole number; and that the allowances to the *rank and file*, during the same period, have been  $6\frac{1}{2}$  per cent. on the whole number; being about six per cent. on the whole number of allowances to both officers and men since September, 1828.

In regard to the Virginia bounties, it appears, from the text to which this note is appended (page 24), that the quantity of land covered, by all the allowances of that State, is 7,120,966 acres; and that of this quantity, 1,617,820 acres have been allowed since May, 1830; showing an allowance

of  $22\frac{1}{2}$  per cent. on the whole quantity since May, 1830. It also appears, by lists of Virginia warrants furnished by the register of the land office of that State, that the whole number of allowances to officers has been 1,532; and that of those, 398 have been allowed since May, 1830; showing allowances of 26 per cent. on the whole number of officers since May, 1830. It thus appears that the land allowances by Virginia, since May, 1830, have been four times as great, in proportion to the whole number, as the allowances by the United States during the still longer period from September, 1828, to the present time.

But the modern allowances of Virginia warrants, instead of being greater, ought to have been much less than those of the United States, for the following reasons:

1. The inducement to make early claims for the bounty was much stronger in the case of the Virginia bounties than in that of the United States, from the important circumstance that the former bounties were much the largest. The average amount of the Virginia bounties to officers is about 3,500 acres each; while the average of the United States bounties to officers does not exceed 250 acres each, being about one fourteenth part of the Virginia bounty. The price of land could hardly have been so low at any period as to induce an individual entitled to 3,500 acres to omit to claim it in consequence of its little value; whereas such omissions would not be unlikely where the quantity was no more than two or three hundred acres. The presumption, therefore, that the Virginia claims were satisfied at an early day, is much stronger than that the claims against the United States were thus satisfied.

2. This presumption of the early satisfaction of the Virginia claims is also increased and strengthened by the fact, that their warrants were more conveniently obtained than the United States warrants—the former being allowed within the State where the claimants resided; while the latter were allowable only at the seat of the General Government, the claimants being scattered throughout all the States.

3. This presumption is still further strengthened by the additional facts, that the Virginia warrants were early satisfied on lands lying in Kentucky, and on the banks of the Ohio, in the vicinity of Virginia, and to which the tide of emigration from Virginia was then rapidly setting; whereas the United States bounties could only be satisfied on lands in the interior of Ohio, with which a great majority of the continental troops had little means of becoming acquainted, and which lands remained unsettled to a much later period than did the Virginia bounty lands.

4. The allowances of United States bounties since September, 1828, ought not to be taken as applicable to Virginia allowances; because, at that time, a publication of the names of those who had been returned entitled, was made by order of the Senate; thus giving notice to all United States unsatisfied claimants to present their claims. But for this publication, the allowances since 1828 would have been much less numerous.

It would seem, therefore, that the presumption against the validity of the Virginia bounty land claims, which have been lately allowed, arising from their recent presentation, instead of being overthrown by a reference to the United States bounty allowances, is, by such reference, strengthened and confirmed.

REPORT OF THE MINORITY.

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*Resolved*, That the Committee on Revolutionary Claims be instructed to inquire into the character and amount of proof which is required, by existing laws and regulations, to establish claims on the United States for revolutionary services in the Virginia continental and State lines and navy; and whether any, and what, further legislative provisions be necessary in regard to the mode of adjusting and allowing claims for such services; and that the report of a select committee, on the same subject, made at the last session, with the papers accompanying said report, be referred to said Committee on Revolutionary Claims.

*The Committee on Revolutionary Claims, to whom the foregoing resolution of the House was referred, have, according to order, taken the same under consideration, and report:*

That, in regard to the first inquiry which the committee are instructed to make, namely, "into the character and amount of proof which is required, by existing laws and regulations, to establish claims on the United States for revolutionary services in the Virginia continental and State lines and navy," the committee are not aware that there is any law or regulation, as to the character and amount of proof, which applies to the adjustment and allowance, by the United States, of the claims in question, which does not, to the same extent, apply to the adjustment and allowance of the claims of citizens of all the States in the Union, who rendered military service in the army of the United States in the war of the Revolution. In the course of that war, positive engagements were made by Congress to allow to the officers and soldiers of the continental army land bounty and half pay, for stipulated service. And on the repeated recommendation of Congress as to the means to carry on the war with vigor, Virginia made similar engagements with the officers and men who served in her continental and State lines and corps, and State navy. *At the time* these engagements were made by the United States and the State of Virginia, no law was passed, nor was any regulation made, prescribing the character and amount of proof which would be required to establish claims to the land and pay stipulated to be paid for prescribed service to be performed by the claimants; nor has any law, known to the committee, been passed making such prescription. When the war ended, the Secretary of War was directed to allow land to all who were entitled, on the evidence of the army returns, and on such other sufficient evidence as the nature of the case would admit, (see journals of Congress 26th of April, 1785, directing on what evidence land warrants should issue;) and the same rule was made applicable to the allowance of pay. It is by this rule, the committee believe, that all the claims in question have been adjusted from the close of the war to the present time. As Congress is the only judicial tribunal known to the constitution to decide claims of individuals on the Government, in the discharge of that function it has been, as it surely should

be, always governed by the established rules of evidence in other judicial tribunals. The committee are aware that a change of this rule has been recently urged, by some who insist that the claims in question ought not to be allowed, except on record evidence of their validity. It must be obvious that such a requisition as this would do great injustice to many; and it would be strange indeed, now, that nearly all these records are destroyed, to make the evidence to be found in the few relics of more avail than when they were in a full state of preservation. Such a rule of evidence might at first have made, as it would now, short work of all military claims on the Government. The destruction of all the army records, whether by design or accident, would have put an end to these claims. That the preservation of these records was important to the Government, is obvious; and it is as obvious that their destruction has occasioned many valid claims to remain unsatisfied.

In regard to the second inquiry to be made, the committee are not aware that any additional legislation is necessary for the adjustment of the claims in question, while Congress continues to act judicially on them. The committee can hardly entertain a doubt that Congress will, as heretofore, provide suitably for all claims to bounty land and commutation pay, which shall be ascertained to be justly due and unsatisfied.

In obedience to instructions, the committee have examined and considered the report of the select committee made at the last session. That report, with considerable addenda, made by a member of this committee, who was chairman of the select committee, is elaborate and unusually voluminous for such a production—too much so, to admit of a satisfactory review of it by one who, in addition to other public duties, is a member of two of the most laborious committees of the House. All that can be done, is to attempt to correct the erroneous conclusions in the report, deduced, as it is respectfully believed, from unfounded assumptions of fact and numerical estimates. And in attempting this, more cannot be done, in the time allotted, than to notice some of the prominent objections contained in the report to the validity of the existing claims to Virginia military land bounty. It is assumed in the report of the select committee, that all the existing claims to Virginia land bounty are spurious, otherwise they would have been applied for in a reasonable time after the war was over. Thus, making the omission to apply for a claim, no matter how justly due, conclusive evidence against its validity; not taking into consideration all, if any, of the many good and sufficient causes of delay, such as the death of the claimant; his ignorance of his claim, or the manner of obtaining it; remoteness from the land office, and the little value of the warrant; but, most of all, the suspension of locations by authority of an act of the Virginia Assembly, which was followed by the treaty of Hopewell, which so narrowed down the district set apart for these locations, as that all the good land in the Virginia reserve, not embraced in the treaty of Hopewell for the use and occupancy of the Indians, was exhausted by the year 1788. (See the report of the commissioners appointed to locate these warrants.) Much labor seems to have been bestowed on that part of the report of the select committee which assumes that, notwithstanding this curtailment of the Virginia military reserve, a sufficient quantity of land remained to satisfy the bounties due to the Virginia State line and navy; and this is assumed on the ground that the treaty of Hopewell included but a small portion of the land assigned to the State line and navy. In making

this assumption, the report omits to notice some things which deserved consideration. It is nowhere mentioned in the report that Virginia engaged to grant to her officers and men *good land*; and while the report sets forth with critical accuracy the boundaries embracing millions of acres to satisfy these claims, it omits to estimate how many millions of acres in that large area are wholly worthless. It omits even to intimate that this well-described district embraces vast regions of mountains, extensive barrens, and morasses; and that, owing to these causes, and after the treaty of Hopewell, continental warrants were located in this region, by means of which all the good land was exhausted by the year 1788. As evidence further of this, when this surplus fell to Kentucky in the year 1818, it sold with difficulty at 25 cents an acre, and vast regions of it remain unsaleable now. It therefore may be affirmed, to say no more, that from the year 1788 there was no *good land* remaining to satisfy these warrants. But if delay to make application for Virginia land warrants can be seriously urged as evidence of the invalidity of a claim to them, why is not the same objection made to the allowance of United States land bounty? No impediment has stood in the way of these claims since the war ended; they have been paid on demand; yet on the 1st of January, 1830, there were 3,146 officers and men, who by the army returns are entitled to United States land bounty, who had not then claimed it. Of these, 894 have since been allowed warrants; leaving still 2,252 unclaimed and unsatisfied, though their claims are valid, on authority not to be questioned, except on the plea of delay. Such a plea would derogate from the character of the Government, especially in a transaction with men to whom the Government owes its existence.

The report of the select committee charges that land bounty has been allowed by the authorities of Virginia with great improvidence, and a culpable disregard of the interest of the United States; and, to sustain these charges, certain documents are relied on, professing to be arrangements of the officers of the Virginia line on continental establishment. These arrangements were made in the years 1781 and 1782, as their dates will show; and by boards of officers hastily convened in time of war, under circumstances necessarily involving them in mistakes, to a considerable extent. The officers were required to appear before these boards, in order to ascertain who were in service and who were supernumerary; and those who did not appear were to be returned as superseded and out of service. To many of the officers, such a requisition was impracticable: some of them were in service in distant parts of the Union; and that large class of supernumerary officers who had returned to their homes, were scattered in all parts of the State, and many of them had gone into other States. Under these circumstances, it must be obvious that many mistakes were made in the returns entered on these arrangements. In the absence of the non-attending officers, some were returned, on the best information the board could obtain, resigned, or superseded, who, in fact, were either in actual service or supernumerary. But what illustrates the imperfection of those proceedings, is the case of Alexander Dick. (See appendix No. 1.)

Now, if the board of officers were ignorant of the true character of their own members, as they manifestly were in the case of Major Dick, it may be well questioned whether they could be well informed in regard to many who were necessarily absent. Such is the history of those ar-

rangements; so that, whatever authority age may have imparted to these remnants of the army records, at their birth they were loudly complained of, and universally considered grossly erroneous. To free the Executive Council of Virginia from the apparent inconsistency, alleged in the report, of allowing claims not sanctioned by these arrangements, it is proper to state that they were lost very shortly after the war, and it was about forty-four years before they were accidentally discovered. In the mean time, the claims, referred to in the report, have been decided by the Executive of Virginia on such evidence as appeared satisfactory, without reference to these lost documents, which, if present, could only be considered as *prima facie* evidence. Assuming, as the report does, on the foregoing premises, that large allowances of land have been erroneously granted, the conclusion is, that no further provision ought to be made for such as are now due. Admitting that unfounded claims have been allowed, (as, in the nature of the case, is almost unavoidable,) the committee cannot see in this just cause for the disallowance of a bona fide claim. It may be assumed, as a general position, that a Government will always do what it ought to do, and that it ought to abide by the same established rules of justice which regulate the affairs of individuals.

Much is said, and many considerations are urged, in the report, to show that, even though there be valid claims to military land bounty against Virginia, the United States are in no manner bound to provide for them. To carry out this proposition, would involve a violation of positive engagement and good faith wholly unknown, and never sanctioned by our Government. Pending the war of the Revolution, the State of Virginia engaged, on the urgent recommendation of Congress, to allow the land bounty in question to her officers and soldiers. For a compliance with this engagement, the State pledged her entire western domain, thus creating an equitable lien on that immense region, covered now by four States and two extensive Territories. At the close of the war, Virginia again, on the urgent appeal of Congress, surrendered to the United States her entire domain, a great portion of which had been conquered by her own unaided means, north and west of the river Ohio; out of which the States of Ohio, Indiana, Illinois, and Michigan, and the Territories of Wiskonsin and Iowa, have been formed. At the time of making this cession, Virginia reserved, by probable estimate, as much land on the southeast side of the river Ohio as was deemed sufficient to satisfy the land to be allowed to her officers and soldiers on her continental and State establishment, and of her navy. And, in the fulness of caution, a reservation was made in her deed of cession to the United States, providing, that in the event of a deficiency of good land on the southeast side of the river Ohio to satisfy the bounty due to the officers and soldiers on her continental establishment, the deficiency was to be made up by Congress in lands between the Scioto and Miami rivers. Such is the deed from Virginia to the United States; but there is evidence to establish in a court of equity, that the proviso in the deed was designed to extend to the Virginia State line and navy, as well as to the continental line; such it can be proven was the tenor of the original terms proposed by Virginia. And what corroborates this is the notorious fact, that during the whole war Virginia most scrupulously avoided any discrimination as to pay, land bounty, &c. &c. between her continental and State troops. It can therefore hardly be imagined, in looking to an

ultimate provision, she would designedly make such a distinction. Nor can it be reasonably supposed that Congress could have objected to the contingent provision for the State as well as the continental troops, seeing it was connected with so vast and liberal a cession of territory. Independent of the equitable obligation of the United States to provide for these claims to land bounty, it is a debt incurred by Virginia in the prosecution of the war of the Revolution, which, by the act of Congress of 1790, the United States became bound and engaged to pay. Influenced by all these considerations, Congress, after mature consideration, assumed to provide for these claims, as will be seen by the act of May, 1830, and other subsequent acts; in pursuance of which more than three-fourths of them have been satisfied. This, therefore, the committee consider as *res adjudicata*, and no longer a matter to be settled.

[See report of Knox, American State Papers, Military Affairs, vol. 1, pages 14 and 15.]

The report of the select committee begins with quoting the various Virginia laws which granted land bounty and half pay; but it omits the following, viz:

1st. The act giving land bounty to chaplains, surgeons, and surgeon's mates: (see 10th volume Hening, page 141, for this act.) Under this, upwards of half a million allowed.

2d. It omits the joint resolution giving land to all Virginians in the service of Congress, though not in the Virginia line: (same volume, page 539.) Under this act, the records in the Virginia land office will show that a vast number drew land bounty. Also, the act putting the navy on the same footing with the army, which brought all Virginians under the operation of the above joint resolution: (see 10th volume Hening, page 467; and 11th volume, pages 84, 85, and 161.)

3d. It omits the act passed 2d of January, 1782, allowing Virginians promoted in the lines of other States, land bounty: (see 10th Hening, page 466, last clause of the 9th section.)

4th. It omits, also, the resolution of Congress of October, 1780, (see Journals of Congress, volume 3d, page 533,) assigning the officers of the cavalry, artillery, and artificers, *as they then stood* arranged, to the States to which they had been assigned, and crediting such States with those officers. Under this resolution, many officers of other States became entitled to land bounty, as officers in a Virginia regiment, particularly in Harrison's artillery regiment.

5th. The report attempts to show that Chief Justice Marshall, with whom General Porterfield agreed, could never have *meant* that there were five hundred entitled to land bounty from all the Virginia regiments. The answer to this is, the known fact that the statement of Mr. Marshall referred to was obtained for a committee of the Virginia Assembly, then acting on that very subject, and he was then on the spot, and saw the use which was made of his statement. No one who knew Mr. Marshall can suppose that he would look silently on, and permit so gross a perversion of his meaning as the report alleges the committee to have made.

6th. The report states, that though sixteen Virginia continental regiments were ordered to be raised, no more than six or seven were ever raised. This is a mere assumption, without authority to sustain it. Fifteen regiments of infantry, and Harrison's regiment of artillery, were actu-

ally raised, as a proper attention to the army records and the history of the war will show.

7th. The report gives a table, purporting to be taken from the report of General Knox, which states that the 5,744 men for 1777, from Virginia, included those for one year, eighteen months, &c., &c. The report of Knox expressly states that there were 5,744 men for three years, or during the war, *besides the militia*. These were sufficient for twelve regiments, though the author of the report in question expressed the belief that six or seven regiments were the most that ever were raised. But the reasoning in the report on this point is artificial, and based on suppositions unsupported by evidence. And what is conclusive in support of the statement of Mr. Marshall, is, the fact that there now exists a full roll of the 12th Virginia regiment. On that roll are forty-two officers, thirty of whom were entitled to and received land bounty, and about 546 men, who were entitled to land. This is the only full roll now to be had. Make this regiment (the 12th) the criterion, and all the estimates of the Virginia committee are fully sustained.

8th. The report not only omits many material laws of Virginia, bearing directly on the subject which it professes to examine and illustrate, but it also omits numerous regiments and corps that ought to have been included, even under the laws it did refer to. It omits, 1st, Lee's legion; 2d, Armand's corps; 3d, Stephenson's rifle regiment, (two-thirds of which were officered and raised in Virginia;) 4th, the officers of the regiment of guards; 5th, officers transferred from other States to Virginia under a resolution of Congress; 6th, all Virginia officers in the service of Congress, by land or sea; 7th, Colonel Bland's regiment of cavalry, and many other corps which could be enumerated. But sufficient is exhibited to show the erroneous assumptions and conclusions of the report.

9th. The report professes to show that, of the 5,744 men for the year 1777, not many could have been entitled to land, as there were only 2,486 in 1780, when the three years could not have expired. The error in this estimate is, that no notice is taken of the 6,181 men who were in the service in 1776, and by inattention to the fact that Knox's return, of necessity, had reference to the end of the years: so that every man of the 5,744 may have served three years and left the army, entitled to land, prior to the return made by Knox for the year 1780, and without including one in the 2,486 in service at the time of that report. Again: many of the 6,181 men in service in the year 1776 must have been disabled or killed in the severe conflicts of 1777, 1778, 1779, and 1780, all entitled to land. One entire regiment was annihilated in the battle at Germantown, and was immediately substituted by the assignment of Gibson's, then a State regiment, to the continental service: (see acts of the Virginia Assembly and of Congress, as to this.) But the return of Knox shows 5,744 men in service in the year 1777, every one of whom was entitled to land, unless he deserted. This is double the whole number of Virginia continental troops estimated by the report to be entitled to land during the entire eight years' war!

10th. The report assumes 3,000 to be a liberal allowance of continental troops entitled to land; and, adopting the ratio of the Virginia committee, it gives 1,312 to the State line and navy.

By reference to the records in the Virginia land office, it will appear that 6,444 persons have received land bounty; and the report of J. H. Smith, Esq., specially appointed to examine a very large mass of papers relating

to the war of the Revolution, shows 6,000 more who have not received land, and who (most of them) appear, by the papers submitted to his examination, to be entitled to it. But the certificate of Judge Marshall, and the data furnished by the roll of the 12th regiment, show that there were more than 8,000 men entitled to Virginia land bounty. It has been ascertained by subsequent investigation into the claims of the Virginia State line and navy to land bounty, that the Virginia committee, as is intimated on the face of the report of that committee, made too low an estimate of the extent of that claim, by a large amount. The report above referred to omits the 1st and 2d State regiments, so called; the State artillery regiment, Colonel Marshall; the State garrison regiment, Colonel Minter; the State cavalry—several corps; the Illinois regiment; Colonel Crockett's regiment; besides many corps attached to these several regiments. And the State navy may be assumed to be equal to three regiments. In 1835, Commissioner Smith, above referred to, reported 478 of the State navy entitled, by authentic documents, to land, but who had not received it; to say nothing of many who became entitled, but whose claims could not be established by documentary evidence. By an act of the Virginia Assembly, 1,300 seamen were at one time ordered to be raised, to serve three years, or during the war, (see volume 9, page 196, Hening's Statutes.) These data furnish at least 5,000 men in the Virginia State line and navy entitled to land; sixteen continental regiments, at 500 each, 8,000; seven State regiments, including Crockett's and the Illinois, 3,500; navy, equal to three regiments, 1,500: amounting, in all, to 13,000; besides the omitted classes—say Lee's legion, Armand's corps, Bland's regiment of cavalry, Virginians in the service of Congress, and the like. Compare all this with the assumption in the report of the select committee; and can it be considered at all justifiable to assume, as that report does, that 3,000 would be a liberal estimate of the number of men entitled to Virginia continental land bounty, and that 1,312 only of the State line and navy are entitled to State bounty? thus, making an aggregate of all who became entitled to land amount to the inconsiderable number of 4,312.

11th. It is suggested, in the report of the select committee, as a strong presumption against the merit of the existing claims to Virginia military land bounty, that, seeing the large bounties promised, especially to officers, *all* entitled are presumed to have applied for and obtained their warrants immediately on the close of the war.

In point of fact, 804 officers, (nearly double the number estimated in the report as entitled,) did receive their warrants within about one year after peace; and these warrants were obtained at a time, and under circumstances, when no one not entitled could be presumed to obtain them. As to the imputation cast upon the merits of these claims, that they have remained dormant such a length of time, a few facts must redeem them from that objection. The low price of land warrants then—often as low as 6½ cents, and never more than 12½ cents an acre—and the heavy expense (never less than half the subject) attending their location in a wilderness occupied by hostile Indians, induced many, very many, living at a great distance from the land office, to be indifferent as to an immediate attention to their claims. Be it remembered, that was not the palmy day of railroads and steamboats; nor did the mail then fly, as now, on the wings of the wind, in every direction, to the remotest corner of this extensive Union. No: whoever had business at the seat of Government had a tedious, laborious, and expensive journey to make, either on horseback or on foot: in pursuit

then, of a land warrant of such inconsiderable value, few would go. This accounts for tardiness of application. But a suspension of the location of these warrants by an order of the Government of Virginia in 1785, in order to avert Indian hostilities from Kentucky, within which the lands to be located were—followed by the treaty of Hopewell, made by Congress with the Indians, which secured to the latter the possession of the lands set apart to satisfy these claims to land—left not an acre of good land, as has been stated, on which these warrants could be located, from some time in the year 1788, to the year 1830, when Congress made the first appropriation to provide for them. Hence the apparent neglect to make application. Can it be matter of surprise to any one, that, under all the foregoing circumstances, many of those claims should now remain unsatisfied? Owing to this interdict to the location, and a deficit of good land, many of the warrants which were issued could not be located, and were finally lost. And it might be safe to say, that the warrants lost, and the bona fide dormant claims which cannot be established for the want of that rigorous evidence of claim now required, would more than double the amount of any unfounded claims which may have been allowed, and about which the report of the committee and others make such loud complaint.

12th. It is insisted, in the report of the committee, that supernumeraries are not entitled to land. As respects the continental line of the army, the laws on that subject, and the uniform action of the Government, allow land to supernumeraries. As respects claimants of that description to Virginia continental or State land bounty, it has been accorded to them by the highest judicial sanction, and acquiesced in by Congress.

13th. The report of the committee assumes that two or three officers, besides those retained in service at the reduction in 1778, were all who were entitled to land, as they could not have served three years. And it allows 29 officers to each of the 11 regiments retained in service in 1778, as the maximum number entitled to land.

In making these estimates on the first assumption, no allowance is made for such as had been killed in battle prior to that reduction; for such as had been disabled by wounds and disease, or who had died of disease; and for invalids and prisoners: these amounted to a considerable number, and all were entitled to land.

Again, the estimate allowing 29 officers to each of the 11 regiments is erroneous in this: it omits staff officers; all engaged in the recruiting service; all the prisoners; and those allowed by the commander-in-chief to go home without resigning. The 12th regiment has a roll of 42 officers; and one of the State regiments had 46 officers. Take these as an average, and it adds about fifty per cent. to the estimate of the committee. As a corroboration of the estimate made by the committee, the number of resignations spoken of in a letter of General Washington is referred to, and relied on. A little attention to the matter will show the irrelevancy of this. It is true, many resignations took place; but it is equally true, that as often as vacancies occurred, they were filled by those who succeeded to the claim to land which would have enured to their predecessors. The report assumes 319 as the probable number, and 418 as the highest possible number who could be entitled to land. The records of the land office show that, within a year after the close of the war, 3,000 persons received land bounty; of these, 804 were officers, of whom 575 were of the continental line. It is hard to presume that any unfounded claims could have been admitted then. Such are the facts of the case, opposed to the suppositions

and assumptions of the committee, unsustained by evidence, based on unfounded data, and sustained by the most artificial reasoning. The report insists that more than 418 officers could not, by possibility, be entitled to land; yet the records show that 575 received it within one year from the end of the war—at a period, and, as has been said, under circumstances which forbid the idea that any one could have received it who was not entitled. So much for this assumption of the committee. The errors in the report consist, in part, in the omission to notice many of the laws of Virginia allowing land bounty; and in the omission of many classes, regiments, and corps, the officers of which became entitled to land bounty chiefly under the omitted laws, as heretofore referred to, viz: Harrison's artillery regiment had 80 officers; the report estimates no more than 29.

The omissions referred to are—

1st. Staff officers—more than 500,000 acres drawn under the act. (10th vol. Hening, page 141.)

2d. All Virginians in the service of Congress; (10th vol. Hening, page 539;) this was a numerous class. Navy the same. (Hen. vol. 10, page 467; and vol. 11, pages 84, 85, and 161.)

3d. Virginians promoted into the lines of other States. (Hening 10, page 466; last clause of the ninth section.)

4th. Officers of other States transferred to the Virginia line. (See resolution of Congress of 3d October, 1780—Journals of Congress, vol. 3, page 533.)

5th. The officers credited to Virginia, viz: 1st, Lee's legion; 2d, Armand's corps; 3d, Colonel Stephenson's rifle regiment—two-thirds of which was raised in Virginia, and went to Canada in 1776; 4th, the regiment of guards; 5th, two State regiments omitted—the estimate being five, instead of seven; 6th, navy estimated at one regiment, instead of three at the least.

6th. All supernumeraries who did not resign before three years' service.

7th. All who died in service; all prisoners; all soldiers who were promoted towards the close and during the progress of the war. Though some of these classes are alluded to in the body of the report, they are not taken into the estimate when the conclusion is made that not more than 418 continental officers could, by possibility, be entitled to Virginia land bounty.

8th. The report assumes eleven as the full number of continental regiments, and allows twenty-nine officers to each. There were fifteen regiments officered. Fifteen of infantry were, in 1778, reduced to eleven; but this reduction did not embrace the artillery regiment, Baylor's cavalry, and the officers of the four reduced regiments, who were all entitled to land bounty.

That the estimate of the number of Virginia officers, assumed in the report of the select committee, is erroneous, will manifestly appear by a reference to the number and character of those officers who received land at the close of the war. These were, besides the commander-in chief, 2 major generals, 11 brigadiers, in the army, of whom ten received land within a few months after the close of the war. Virginia had 39 colonels and 47 lieutenant colonels—86 in all, of whom 62 received land within a year after the close of the war. Now, the single fact that Virginia had 14 generals, and 86 colonels and lieutenant colonels, shows conclusively that her forces must have exceeded vastly the number estimated in the report of the committee, which estimate forms the basis of the speculative reasoning and results exhibited in that document. It is not assumed, nor intended to be

claimed, that Virginia had, at any one time, as many officers in actual service as are above estimated. Some were killed; some were prisoners; some became supernumerary; and some resigned after three years' service: all, nevertheless, entitled to Virginia land bounty. The same casualties apply to the inferior officers, whose numerical proportion to the colonels could not have been less than forty to one, estimating ten companies to a regiment, and four officers to each. In truth, the number of inferior officers, from greater exposure to hardship and danger, who were killed, died in service, invalids, prisoners, &c., was, it is fair to conclude, much beyond a mere numerical proportion, compared with the generals and colonels; yet, if even this rule be adopted, and 43 be taken as the medium between colonels and lieutenant colonels, that number multiplied by 40, and it exhibits 1,720 officers of the continental and State lines, who would be entitled to land; independent of the navy, which had a larger number of officers, in proportion to the men, than the lines in the land service had, from the fact that the warrant officers in the navy, ranking with the subalterns on the land, were very numerous: these all were entitled to land.

There were, as has been stated, fifteen Virginia continental regiments of infantry, all the officers of which, reduced or not, were entitled to land. Bland's cavalry regiment; Harrison's artillery regiment, equal in officers to two infantry regiments; Stephenson's regiment; the regiment of guards; Lee's legion; Armand's corps; the State legion: in all, equal to five regiments. To which is to be added, all those in the service of Congress, either in the army or navy; equal, at least, to five regiments more—making an aggregate of 25 regiments. Taking, then, 40 officers as the average number to each of these 25 regiments—and 42 is the number on the roll of the twelfth regiment—and in assuming 40 as the average, all are included who died, invalids, prisoners, supernumeraries, and those resigned, who served three years: it shows 1,000 officers, besides general and staff officers, amounting, at the least, to 100; in all, 1,100 entitled to Virginia continental land bounty; and of these, 976 only have received it, leaving 124 unsatisfied.] The report of the committee assumes that the number of changes from death, resignations, &c., &c., could not amount to many, seeing there appeared to be so many who had served over six years, and to the end of the war; thus showing they had left no vacancies from the beginning, to be filled.

In assuming this, the following facts are overlooked: 1st. That all supernumeraries, whether of 1778, or any other period, and all the reduced and retiring officers, were entitled to land, as if in service at the end of the war. 2d. All who died or were killed received the same as if in service at the end of the war. 3d. All who, having served as privates or non-commissioned officers, and afterwards were promoted and commissioned, (and there were many such,) were allowed land as officers from their first service, to the end of the war, though they might have been officers a few months only prior to the close of the war. These three classes (and they were all numerous) are to be deducted from the number of those assumed in the report as having left no vacancies. The large grants of land already issued in satisfaction of these bounties is more than intimated in the report as evidence of error in allowing those grants. These large grants, in the aggregate, are to be accounted for by the very liberal bounties allowed, both to officers and soldiers, in pursuance of repeated appeals by the commander-in-chief and by Congress to the patriotism and generosity of

the several States, to make ample provision for the army at the close of the war—to the end of insuring a vigorous prosecution of it. But those times are, by too many, forgotten; and few now seem to take into the estimate that the land thus granted was the price, in part, paid for that liberty and independence they now enjoy. It was under these circumstances that Virginia allowed a major general 15,000 acres, brigadier general 10,000, colonel 6,666 $\frac{2}{3}$ , lieutenant colonel 6,000, chaplain 6,000, surgeon 6,000, major 5,333, captain 4,000, subalterns, each, 2,666 $\frac{2}{3}$ , besides one sixth for each year in addition to the above, for service over six years; and, under this provision, many received as much as half, in addition to the above bounties. Sufficient has been stated to correct many of the prominent errors in the report of the select committee, and to justify the committee of the Virginia Assembly against all the material charges against their report. Sufficient, it is confidently believed, has been adduced to show that many just claims to Virginia military land bounty remain unsatisfied; and the demand on Congress to make provision for the satisfaction of all such claims as can be shown to be valid, is unquestionable. This is a debt contracted by Virginia in the prosecution of the revolutionary war, and, as has been remarked, at the repeated solicitation of Congress; and if no other consideration could be urged, the act of Congress, called the assumption act, is sufficient to demonstrate the claim of Virginia on Congress to provide for these land bounties. By that act, Congress assumed to pay all the debts of the several States, contracted by each in the prosecution of the war, and is thereby justly bound to pay this.

But it is alleged in the report of the committee, that Congress has already given scrip for more than all the unappropriated land between the Scioto and Miami; that, therefore, no further claim can be properly made on Congress, as that land *only* was reserved. Here the committee err, in taking no proper notice of that extensive region of land set apart by Virginia, west of the Tennessee river. This, if added to the lands set apart between the Scioto and Miami, would have been an ample quantity of land to satisfy all the engagements of Virginia to all her troops. Of this her troops have been deprived by the treaty of Hopewell, and no equivalent has been provided. Again: Virginia, having, as has been shown, promised large bounties to her troops, did, by an act of her Legislature, in 1782, pledge *all* her western lands to satisfy those bounties; thus creating an equitable lien on her entire domain. Afterwards, Virginia gave all this domain to Congress, making the reservations above referred to; and it may be justly asked, Can the second donee, in conscience, hold to the gift, to the exclusion of the officers and soldiers? The question, then, now to be settled, is, Do any of these claims, appearing justly due, remain unsatisfied? If so, it is confidently expected that Congress will, as a matter of justice, provide for the satisfaction of all such. It is strongly intimated in the report of the committee, that land bounty has been allowed by the authorities of Virginia improvidently, and to large amount, to many not entitled. A few cases out of the thousands acted on may be selected to give color to this allegation, which, if true to its utmost extent, would be an atom, compared with the omission to grant bounties, in land and pay justly due, to a very large amount, by those authorities. Half pay for life was promised by Virginia to all her officers who became deranged by the reduction of the army, at any period of the war. (See act of Virginia Assembly, May, 1779.) Yet not one of these officers who were reduced prior to May, 1779, has, to

this day, received that pay. And by an act of Assembly of — (see Hening) Virginia promised 100 acres additional land bounty, and \$200, to be paid in specie, at the end of the war, to all her soldiers who should serve to the end of the war in the continental line. Though thousands became entitled to these bounties, not a man has received them. Does this wear the appearance of improvidence, or a design on the part of the Virginia authorities to extend the amount of these claims beyond what was considered justly due? Certainly not.

But the antiquity of these claims, and that many of them have fallen into the hands of speculators, are urged in the report, and elsewhere, as insuperable grounds of objection to the payment of them. A violation of the contract on which those claims are founded, by the Government, is the cause both of their antiquity, and that many of them fell into the hands of speculators. The Government agreed to pay specie in discharge of them; but, instead of specie, all the means for payment consisted of bonds, so depreciated and worthless, that many claimants either would not receive them, or would not incur the trouble and expense of applying for them. So that, in all this business, the Government was the parent of the speculations now so severely denounced. But it is said that a full and fair opportunity was afforded by the Government to the claimants to liquidate their claims at the close of the war; that, after the close of the war, commissioners were appointed in each State for that object. True, such commissioners were appointed; but to do what? Why, to perform a mere mockery. It was only to ascertain what was due to the individual, and to send him off with a bond, which would often not defray his expenses in seeking this full and fair opportunity afforded him to receive payment of his claim. There is no one, acquainted with the history of that period, who will not affirm that the public bonds, then issued in discharge of revolutionary claims, were not nearly as worthless as the millions of paper-money was, just then defunct. And there was a prevailing opinion that no better provision could ever be made for these bonds (called certificates of debt,) than had been made to redeem paper-money. Such was the full and fair opportunity said to have been afforded. And to this were added statutes of limitation, which barred these claims more than thirty years; and now it is their antiquity is a reproach, and furnishes with many a sufficient reason to reject them.

The application to Congress to provide for the unsatisfied land bounty is not, as the report assumes, an appeal to the benevolence of that body. It is not asked as a gratuity, but it is an appeal to the justice of Congress. The reservation in Ohio, to satisfy these land warrants, never belonged to Congress. It is reserved by the deed of gift of Virginia; and Congress should take no credit to itself for any locations therein made; it never had a right to prohibit them. The application, then, of Virginia to Congress, is, that as the former owes on account of the revolutionary war more land than was reserved in the deed of cession to the latter—as the latter has received the consideration of the debt, and has got from the former, by donation, the means of paying that debt—can it be questioned but that a sufficient portion of those means should be devoted to extinguish that debt?

It is insisted, in the report of the select committee, that the officers attached to the regiment of guards raised in Virginia in 1779, and those attached to the regiment under Colonel George Gibson, were not continental officers in the line of the army, and, therefore, not entitled to United States

land bounty and pay; and this is urged on the ground that land bounty and half pay were promised to such officers only as were commissioned by Congress, whereas these were commissioned by the Governor of Virginia. The maxim, *qui facit per alium, facit per se*, has ever been held a sound one, and it applies most aptly to this objection. By a resolution of Congress of the 9th of January, 1779, (see journals of Congress,) it was ordered that a battalion of six hundred men should be raised in Virginia, on continental establishment, to be officered by the Executive of Virginia, and to be denominated the regiment of guards. The regiment was, according to order, raised, and the officers commissioned by the Governor of Virginia; and it continued in the continental service till May, 1781, when the men were discharged, and the officers became supernumerary, entitled to all the benefits of officers of that class; and though not actually commissioned by Congress, it was under that authority alone they were commissioned. George Gibson's was originally a State regiment, and the officers commissioned by the Governor of Virginia; and the history of it is, that, upon the requisition of Congress on Virginia to replace her 9th continental regiment, which was annihilated at the memorable and bloody battle of Germantown, Colonel George Gibson's regiment was, on the 12th of September, 1777, by an act of the Virginia Assembly, substituted for the 9th regiment, and thereby transferred from the State into the continental service. Accordingly, by a resolution of Congress, this regiment was ordered into the continental service. (See journals of Congress, September, 1777.) Thus it appears, that, by law, Gibson's became a continental regiment; and Virginia could not, if she desired to do so, recall it. (See letter of the Secretary of War.) This regiment was in all the hard-fought battles to the north—from the battle of Brandywine to the victory at Monmouth; and though, from its being originally a State regiment, mistakes have, from time to time, been made as to its true character, by those unacquainted with its true history, nothing is more clear than that from 1777 to the close of the war it was a continental regiment.

The report of the select committee concludes with a recommendation that no further appropriation of land ought to be made by Congress to satisfy existing claims to Virginia military land bounty; and that no claim to commutation pay ought hereafter to be allowed, except upon record or other documentary evidence. Besides the considerations already stated, to show that the United States are justly and in good faith bound to provide for the claims on Virginia to the land bounty in question, if Congress adopt the recommendation of the select committee, what is to become of the 10 per cent. due on about 350,000 acres of land warrants now on file in the United States Land Office, on which, by act of Congress, 90 per cent. has actually been paid? What is to become of about 350,000 acres of warrants now on file in the Land Office of the United States, placed there by the claimants, in full faith that the Government, in the exercise of a consistent, even-handed justice, would make the same provision for these which had been made for others, identical in all respects, but which, owing to the failure, for the last four years, of Congress to make the expected provision for them, are reduced in value from \$1 25 an acre, to 37 cents? and such is the necessitous condition of some who actually paid in blood, and the descendants of others who paid the like price for these warrants, as to compel a sale of them at the abovenamed reduced price. It is asked, who is to provide for them? Is Virginia to provide for them, after surrendering to

the United States, gratuitously, the means she had pledged for their satisfaction? Such must be the result, if Congress fail to provide for them.

In the long and labored report of the select committee, no reason is assigned for the unjust discrimination which has always been made, and especially during the past five or six years, in the provision made by Congress for United States continental land bounty and Virginia continental land bounty. Seeing that the United States are equally bound to satisfy both, it is difficult to imagine why the first, in all time up to the present period, should have been provided for by acts of Congress on demand, while a large amount of Virginia continental land bounty has for the past five or six years remained wholly unprovided for, to the great loss of the holders of these warrants, many of whom, (as has been said,) from necessity, being obliged to sell their warrants at 37 to 50 cents an acre. When it is recollect- ed that the State of Virginia gratuitously ceded and granted the land to the United States, out of which the United States land bounty has been and is to be satisfied, with this proviso in the deed of cession—that if Virginia had not reserved a sufficiency of good land on the southeast side of the river Ohio, to satisfy the land bounty promised by her to her officers and soldiers who served in the continental army, the deficiency was to be made up by Congress out of the good lands between the Scioto and Miami rivers—why, then, has this distinction been made? It is difficult to imagine how, with such facts before them, the select committee came to the conclusion that no provision ought to be made for these claims.

The other recommendation of the select committee, to allow no claim to commutation pay, except on record or documentary proof, is, as has been said, unprecedented and unjust. The claims which have been presented for the last twelve years, and which will probably be presented, are in behalf of such officers as can be shown to have been in service subsequent to the 21st day of October, 1780, at which date half pay for life was promised by Congress to all officers who continued in service to the end of the war, or who, subsequent to that date, became supernumerary. At the time of the passage of the aforesaid resolution, a reduction of the army took place, and several reductions took place afterwards, by means of which many officers became supernumerary and entitled to half pay for life. Add to this, as the war drew to a close, many officers were left without command, owing to the expiration of the enlistment of the soldiers: they, of course, went out of actual service, as did many others on leave. It is also true, that, subsequent to the passage of the aforesaid resolution allowing half pay for life, some officers resigned, and a few were cashiered. Whether any accurate account was ever made and recorded as to all these matters, so as to show what officers became supernumerary—went out of service for want of command, or on leave, as the war approached its end; who resigned or were cashiered—certain it is, that no such evidence of these facts now exists, owing to the almost entire destruction of these revolutionary archives by fire and other casualties. Hence the difficulty now, and for the last twelve years, attending the adjustment of these claims. In the examination of them, when the claim is in behalf of an officer shown, by satisfactory proof, to have been in service subsequent to the 21st day of October, 1780, and at different periods thereafter, extending through 1781 and into 1782, but who, subsequent to some one or other date within those periods, does not appear to have been in actual service, the presumption is, that such officer then left the service; and the question arises, how did he leave it? was he

supernumerary, without command, or absent on leave at the end of the war? or did he resign? or was he cashiered? In the absence of record or other documentary evidence to explain this, in order to a decision, presumptive evidence must, of necessity, be resorted to. It must be presumed that the officer went out of service in some of the modes above mentioned, entitled to half pay; or that he resigned, or was cashiered, and thereby forfeited claim to that pay: one or the other of these presumptions is, as has been said, necessary to a decision. Is it more reasonable, and does it better comport with the nature of things, to presume that a patriotic officer, with the prospect before him of the liberal provision made for him by Congress for his service to the end of a war, then near its close, would resign? or that his disappearance from the service at any period after the 21st of October, 1780, arose from his having become supernumerary, by reason of the several reductions of the army; that he had left the service for want of a command; or that he retired on leave, as many did, not to return till ordered? The latter presumption has been adopted and acted on by this committee and by Congress for the last twelve years; most of the claims which have been allowed during that period were sanctioned on this presumption, and the committee can suggest no other just rule for their adjustment. To require these claims to be proven now, by record or documentary evidence, would be to require that which is impossible, and an act of injustice.

In conclusion, the committee perceive nothing in the statements made in the report of the select committee which calls for a change in the character of the proof for establishing claims on the United States for the revolutionary claims referred to. The Committee on Revolutionary Claims, acting as the judicial organ of the House, has decided, heretofore, each claim as it occurred, on such evidence, record and parol, as, in their opinion, would be admitted in a judicial forum. All which is submitted, with the following resolutions:

*Resolved*, That as Congress continues to adjudicate and allow claims of individuals on the United States, for revolutionary services, no change in the character and amount of proof now required to adjust and allow those claims is deemed necessary.

*Resolved*, That provision ought to be made by Congress for the unsatisfied military land-bounty warrants promised by Virginia, in the prosecution of the war of the Revolution, to her officers and soldiers who were engaged in that war, and who served in her continental and State battalions, and other corps, and in her State navy.

## APPENDIX

TO THE REPORT OF THE MINORITY OF THE COMMITTEE ON REVOLUTIONARY CLAIMS.

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## No. 1.

To show the loose and irregular proceedings of those boards of officers charged with ascertaining what was the actual condition of officers toward the close of the war, the case of Major Alexander Dick furnishes a striking instance.

Alexander Dick was, early in the war, commissioned a captain in the continental line of the army. Some time in 1779 he was captured, sent to England, and lodged in Fortune jail. Some time in the year 1780 he made his escape from jail, and after various perils he reached the United States. During his absence, he became entitled, by promotion, to a majority in the continental line; but, as there was then no command for him in the northern army, he went to the south, on the earnest recommendation of the Virginia Assembly, addressed to General Green, to give Major Dick service in the continental army under his command. As, however, General Green could give him no employment, Major Dick returned to Virginia a supernumerary, in 1781, a short time previous to the invasion of that State by Cornwallis. He took the field as a supernumerary major, and was in active command up to the surrender of Yorktown; after which, the men under his command were discharged, and Major Dick was not again called into service. Such was the true condition of Alexander Dick; yet, without having ever been commissioned an officer in the Virginia State line, he was detailed as one of a board of State line officers, to arrange the officers of that line; by which arrangement, Alexander Dick was returned as a major in the Virginia State line, and in service at the end of the war. By this erroneous return, Alexander Dick was allowed land bounty, as a major in the Virginia State line; and he has been, on the faith of that return, disallowed United States land bounty and commutation. If, then, a board of officers could be palpably in error as to the true character of its own members, what must have been the errors as to officers not present? (See the proceedings of a board of officers of the Virginia State line, which met at Richmond, 6th of February, and 14th of April, 1782.)

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## No. 2.

(No. 1.)—*Captain Thomas Triplett.*

There were four persons of this name, viz: Captain Thomas Triplett, who served to the end of the war, and afterwards removed to South Carolina. His representatives, on the 14th of October, 1817, received the land

for seven years' services. The records of the Virginia land office show that they were then residents of *South Carolina*. They are now entitled to commutation; but have never asked it.

The second Thomas Triplett was from Fairfax. He entered the service in 1775, and either resigned or returned home on furlough in very bad health, and died in 1780. He was the brother-in-law of General John Chapman Hunter, now of Fairfax.

The third Thomas Triplett lived in Kentucky, and had been in his *dotage* many years before the pension was obtained in his name—not only in his dotage, but entirely without intellect. His son was the fourth of the name; he was the *felon*, who used the evidences of the services of the true man, and, using his father's name, appropriated them accordingly; and thus imposed on the Government at Washington. The services had been rendered by *one* of the name, and the commutation was due; it was paid to the wrong person. If the heirs of the real Captain Triplett shall ever present their claim, the proof will doubtless be readily furnished. Here was no fraud on behalf of the *officer or his heirs*; but by a drunken man, without principle, using the name of his father, *who was never one hour in service*.

(No. 2.)—*Captain Robert Beall.*

There were *two* of this name. On the 9th of December, 1784, the commutation was paid to one: he was in service 25th of March, 1783, when he received his warrant (No. 193, for 4,666 $\frac{2}{3}$  acres) for services from 10th of February, 1776. He was in the 3d Virginia continental regiment, and drew his land on the certificate of Colonel John Gibson, dated 25th of March, 1783. This same Colonel John Gibson, on the 17th of June, 1783, (not three months after,) certified that the other Captain Robert Beall entered the service also in 1776, and continued in service till 1781, "when he became a *supernumerary*," and he drew warrant No. 853, for 4,000 acres.

One Captain Robert Bell is said to have resigned. But the positive certificates of Colonel John Gibson of 25th of March and 17th of June, 1783, that one of these officers was then in actual service, and that the other was then *supernumerary*, would justify the belief, either that the *roll* was itself erroneous, or had reference to some third individual.

That the roll or return was erroneous in other respects, and in other cases, will be clearly shown hereafter. Colonel James Wood, in 1803, and in 1808, when additional bounty was allowed, corroborates the two certificates of Colonel Gibson, and speaks of both as good officers. Not only is the contemporaneous evidence in June 1783, of Colonel Gibson, that the other Robert Beall was a *supernumerary* in 1781, almost conclusive, but the fact of Captain Beall's drawing his warrant *under that certificate* is an *endorsement* of its *truth* by him; the contrary of which, if not true, he must necessarily have known. To suppose he was not a *supernumerary*, we must put more reliance on the list referred to (which will hereafter be shown to be incorrect in *other cases*) than on the positive testimony of two high officers and gentlemen at the date of the transaction. This list was made from the best evidence before the board, but *imperfect* evidence nevertheless, and was erroneous in many cases. The *memoranda* on the previous rolls were made long *after* those rolls, and were probably made by the clerk or other officer having charge of them—in some instances from the hearsay of transient officers, who, being aware that certain officers were no longer in ac-

*tual* service, may have heard or supposed they had resigned, and, from the repetition of the rumor or averment, the annotations were made by the clerk having charge of the rolls. That they were often erroneous, is clearly shown.

(No. 3.)—*Lieutenant John McDowell.*

On the 14th of June, 1783, he received his land bounty from Virginia for three years' services. The records, and the oral testimony in his case, show conclusively he was entitled to it. Virginia did not grant an acre of land to which he was not entitled.

(No. 4.)—*Ensign John Spilfathom.*

From the testimony on which he received his Virginia land, it appears he was in service at the battle of Great Bridge, December 12, 1775, and continued in *active service in the seven northern campaigns*, until 17th December, 1780, when he was appointed an ensign; and the records show him to have continued in active service till after the arrangement of 1781. Two of the witnesses say he continued in service to the end of the war. The list dated 2d September, 1782, contains his name among the *resigned* officers. If he resigned, he was entitled only to  $2,666\frac{2}{3}$  acres, having served for about six years; he was allowed 518 acres over that quantity.

Let it be borne in mind, these rolls showing the different arrangements of the officers were *lost* or *mislaid* in 1785, and were found by Judge Cabell on 2d of October, 1829; during that interval of forty-four years, it is believed no human eye ever saw them. They were before the Legislature in 1785, when the claims of the supernumerary officers were argued at great length. Captain Edmund Read was a member of the House, and doubtless put these by mistake among his private papers. He died not long after; and Judge Cabell, his executor, in 1829, when examining his papers, found these rolls, which he immediately deposited among the public archives of the State.

Thus, if it be true that some allowances have been made, for more than would appear by these rolls to have been due, Virginia is not *in fault* if the other testimony in the absence of this were satisfactory, as was most conclusively the case in Spilfathom's claim.

(No. 5.)—*Captain William Vause.*

After serving nearly all the war, he was superseded at Cumberland for absence. In 1783 he was unanimously reinstated; he having shown that he was in the western country at the time, and could not possibly have heard of the order convening the board. Colonel James Wood says he was president of the board which unanimously reinstated Captain V.

(No. 6.)—*Lieutenant Thomas Wallace.*

He was in service over three years, whether he resigned or not. This made the allowance by Virginia unquestionably correct. If he resigned before the end of the war, he is entitled to nothing more.

(No. 7.)—*Captain James Craine.*

It was thought that his having received depreciation pay to 31st December, 1781, was *prima facie* evidence that his time ended then. No depreciation was paid *after that time*, because there was *no depreciation* after *that date*. To receive *to that date*, is conclusive of service for that period; but as no payments in depreciated currency were made afterward, no inference can possibly be fairly drawn that an officer resigned *then*, because his settlement for *depreciation* ended there. And this is again conclusive that the word "resigned," opposite Captain C.'s name on the arrangement of February, 1781, must necessarily have been *written after* the year 1781; which is remarked, in order to show that these annotations or notes have not the authority of the board even, but were made according to the information collected by the keeper of the returns. If Captain C. resigned, the Executive of Virginia had no evidence of the fact, and was obliged to act as it did, upon the evidence presented; which is admitted to be very strong, and is probably entitled to more weight than the evidence of resignation.

(No. 8.)—*Lieutenant John Townes.*

On 28th November, 1783, he received for three years' service. Mr. Hagner certifies that his accounts were settled up to 12th March, 1782. His commission in the 6th regiment, at Chesterfield arrangement, is stated to have borne date 1st July, 1777. Here, then, is positive proof of record that he was *entitled to all the land which Virginia gave him.*

Here, again, it is to be remarked, that it is manifest the word "*cashiered*" was not written opposite his name by *proper authority*, as the subsequent records show that *he had not been cashiered.*

(No. 9.)—*Captain Charles Snead*

Is said to have been superseded 2d September, 1782—probably for *non-attendance*. He is said to have been a good officer, of great pride and high character; and his having been superseded (overslaughed) would not deprive him of his *rights*, unless he claimed the bounty under the act of 1782. His claim under the *previous* laws was good, unless he had, by misconduct, forfeited his rights. This act of 1782 gave the bounty to certain officers, (not before entitled,) on condition that they had not been superseded; but if the claims were not made under this law, no such condition attached. Arbitrary superseding (without just cause,) so far as is known, could not deprive an officer of his rights; and upon the conviction of the propriety of this position, all the *discriminded* officers (who were not tried by court martial) have been, on solemn argument, paid their half pay, after taking counsel from some of the ablest men in the country.

If Captain Snead was superseded, it may have been for the same reason that Captain Vause was; and the reproach, if it were one, may have been removed in the same manner; although we see no evidence on the subject, as there would have been none in Captain Vause's case, but for the certificate of Colonel Wood—that is, if Vause had not applied very early for his land bounty, this return of the board could not have been satisfactorily explained. Captain Snead was entitled to the Virginia land, whether he was superseded or not, unless he left the service.

(No. 10.)—*Lieutenant John Barns.*

The records show him to have been more than three years in service. (See Smith's Report, No. 2, page 3.) If the return of 2d September, 1782, be correct in regard to him, nothing was due him.

(No. 11.)—*Captain Nathan Lamme.*

January 17, 1786, he received land for three years' services; his commission was dated September 10, 1778, and it is conceded he resigned after May, 1782. Virginia did right in granting the land.

Here again it is seen the word "superseded" opposite his name, as the arrangement of 1781, was made *without authority*, for the return of September, 1782, states that he had *resigned*. These repeated errors show that but little confidence can be placed in those arrangements, as they are so frequently *inconsistent* with each other.

(No. 12.)—*Lieutenant Robert Jouett.*

He was manifestly, by the records quoted, more than three years in service, prior to his alleged *resignation*, (September 1782,) and Virginia unquestionably did right in granting the land. It appears his accounts were settled to May 10, 1782. It is not very probable an officer would have resigned after that period; yet it may have been true. This same list enumerates Lieutenant William McGuire among the resigned officers, whereas the proof in his case is *conclusive* that he served to the end of the war. So with Captain Francis Minnis on the same list.

(No. 13.)—*Ensign Thornton Taylor*

Was a supernumerary of 1778, and is admitted to have been entitled to land. All those supernumeraries were also entitled to half pay.

(No. 14.)—*Lieutenant James Burnett.*

See remarks in the preceding case, which apply to this.

(No. 15.)—*Captain Thomas Blackwell.*

See remarks on Thornton Taylor's case.

(No. 16.)—*Captain John Thomas.*

See Smith's report, December 10, 1835, p. 112. He was in service as a sergeant early in 1776, and, after serving more than three years at the north, was appointed a captain in the regiment of guards, and became supernumerary with the rest of the officers of that regiment.

(No. 17.)—*Ensign James Broadus.*

19th February, 1784, three months and four days after the war ended, he received his land bounty. He was manifestly entitled to it.

(No. 18.)—*Captain Samuel Jones.*

On 19th December, 1782, before the war was ended, and before any cession to Congress, he received his bounty land.

(No. 19.)—*Lieutenant Simon Summers.*

16th December, 1784, he received land as lieutenant for three years' service. 1st March, 1817, he received for the seventh year's service. The records show he was a lieutenant as well as *adjutant*, which appears to have been overlooked. The settlement to 10th February, 1781, no more shows his *resignation* than that Captain Vause's settlement to 10th February, 1781, showed his.

It may be remarked, that about that time most of the officers became supernumerary, and payments ceased to them; and, of course, there was no depreciation to make good. Again, it often happened that officers drew nothing after the money became so much depreciated; those that could do it, preferred to wait; the consequence was, that after the 1st January, 1782, when the pay became good, they drew, in *good* money, the arrears; and, in the *depreciation account*, they would settle up to the period when they last received depreciated money.

(Nos. 20, 21, and 22.)—*Captains John Winston, Tarpley White, and John Marks.*

20th April, 1783, John Winston received for three years; Captain White on 15th July, 1783; and Captain Marks on 3d September, 1782.

The periods at which they received their lands show they were entitled. The other public records also show it. They were doubtless supernumeraries; but whether so, or not, Virginia granted the lands properly.

(No. 23.)—*Captain Philip Slaughter.*

It is shown that he entered the service at the commencement of the war, and was in active service in all the arduous campaigns of 1776, '77, '78, and '79.

Subsequently, in 1779 or '80, he authorized his friend, the late Chief Justice, to hand in his resignation if he should be called into service again; but not being called on, he says (and Judge Marshall was satisfied of the fact) that the resignation was not handed in.

At a subsequent period, Captain Slaughter swears that General Muhlenberg returned to him his commission, (which he had sent to the General with his intention to resign,) and stated that he could not think of accepting it. If General Muhlenberg kept a *diary*, this statement of Captain S. might be proved by it. An intention to resign is nothing. Did he *actually resign*, and was the *resignation accepted*? This is the only question. Captain S. stands as high as any man for honor and integrity; he says he offered to resign, and for two or three months thought his resignation had been accepted, when he received it back from his commanding officer, who declined to accept it, and urged it upon him to hold it. He did hold it, and in proof exhibits the commission as having been in his possession ever since. His intention to resign at one time, does not affect his *legal* rights; and the

campaigns through which he *actually served* should settle any question about *equity*.

(No. 24.)—*Lieutenant Wm. Madison.*

It appears by the affidavits of General Madison, the petitioner, and of George Corbin, and other evidence, that the court of Madison county *was satisfied* that Lieutenant Madison was appointed a *lieutenant* in Harrison's artillery in 1781, and never resigned. The court knew the parties, and, knowing them, was satisfied of the truth of the statement. The affidavit of Corbin, an unimpeached witness, is positive as to the fact of Madison being an officer in that regiment. The affidavit of General Madison, a man of the highest character, taken in connexion with the other evidence, satisfied the Executive of Virginia that he had been, first, a lieutenant of Harrison's artillery, and, secondly, that he never resigned his commission. Whether he was in *active service* two months or more, *is immaterial*; if he held his commission, he was *entitled* to the bounty; if he held his "*appointment*," it was the same thing. Hundreds of officers never received their "*commissions*" *at all*. The journals of Congress are filled with cases of commissions being issued to *take date years* before they were issued, viz: from the time of the *appointment*; which often took place just *before*, or *during*, or immediately *after action*, and in face of the enemy. If it be conceded that Madison had the appointment for any time, no matter how short, then he is entitled to the land, &c., unless he gave it up.

His having been but a short time in service, may answer very well to create a *prejudice* against him, but does not touch his *legal rights*.

It may be repeated: the only questions in the case are, first, did he ever hold the appointment of lieutenant in Harrison's artillery? And if so, secondly, did he ever resign it?

If he held that appointment, no matter for how short a time, and did not resign it, he was *entitled* to the land bounty. And if he had the *legal* right, the *Government* should not withhold it for any supposed want of meritorious service.

Judge Brooke says, General Madison wished to bring forward his claim at an earlier day—in the lifetime of his brother, the late President; but was dissuaded by the latter. This shows he must have considered himself entitled, and that the presentation of the claim was not the result of any *recent* thought or determination.

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No. 3.

In regard to the allegation that \$500,000 was accepted by Virginia in full for expenses incurred in the Illinois campaigns; that, nor no other sum paid to Virginia, did by possibility include the half pay claimed by the officers who served in the Illinois expedition from Virginia, because Virginia then did not consider herself bound for the claim, and in the deed of cession does not appear even to have contemplated such cases; all her other corps were especially provided for in that deed. But the courts decided that Virginia was bound to pay these claims; and as no charge on that account had ever been made against the United States, and as Virginia had

not voluntarily paid them, Congress made provision for them by an act passed 1832.

It is manifest that the \$500,000 spoken of by Knox must have been estimated on the amount either actually paid by Virginia at the time of settlement, or known to be due on acknowledged engagements, and could not include claims then and for many years thereafter resisted by Virginia. The United States, therefore, can no more avail themselves of that settlement, or agreement to bar the claim, than they could of the limitation acts of 1792, 1793, and 1794. If the determination not to pay wants an excuse, why not appeal to these acts of limitation? To avail of a settlement, when it is known these claims were not even contemplated in the adjustment, would surely be as inequitable as a resort to the act of limitation.

#### No. 4.

By a resolution of Congress, (see journals, 27th of May, 1778, vol. 2, page 567,) the regiments were to have officers, as follows, viz:

Infantry, thirty-two commissioned officers; three staff officers to be taken from the supernumeraries.

Artillery, seventy-seven commissioned officers, (see page 568.)

On the 18th of May, 1776, two subalterns and forty privates were added to the artillery regiments.

On the 3d of October, 1780, (vol. 3, page 532,) the artillery regiments were reduced to nine companies, but with the same number of commissioned officers as at present.

By the resolution of Congress, 21st of October, 1780, (page 53S,) the infantry regiments were to have thirty-six commissioned officers and four supernumerary subalterns, to recruit &c., &c.

The regiments of artillery were to be augmented to ten companies, thus making room for the officers as at first constituted; or possibly it required new officers for the new company, which gave occasion for the appointment of Lieutenants Ed. Brooke, Ph. Lightfoot, and Wm. Madison, in 1781.

#### No. 5.

By a resolution of Congress, 7th of August, 1782, a reduction of the army was ordered, and a list of the officers retained to be returned to the War Office. No list of the deranged officers was required to be returned; they were to be considered as retiring, entitled to all the emoluments to which the officers were entitled, who retired under the resolution of the 21st of October, 1780.

By a resolution of Congress, of the 31st of December, 1781, the officers not belonging to the line of any particular State, and not returned as in service on the 1st of January, 1782, were to be considered as retiring, and entitled to the benefit of the resolution of the 21st of October, 1780.

By a resolution of the 23d of April, 1782, (the 5th resolution,) the number of lieutenants to a regiment was reduced to ten. The junior lieutenants to retire, entitled to the benefit of the resolution of the 21st of October, 1780.

Seeing that no officer was allowed commutation under the regulations of the War Department, except such as by the muster-rolls was in actual service on the 3d of November, 1783, or who was returned supernumerary, it must be evident that many supernumerary and retiring officers entitled to that, did not receive it; and nearly all the existing claims are of that class.

## No. 6.

The Commonwealth of Virginia to Francis Taylor, Esq., *Greeting:*

Know you, that, from the special trust and confidence which is reposed in your patriotism, fidelity, courage, and good conduct, you are, by these presents, constituted and appointed colonel of the regiment of volunteers for guarding the convention troops at Charlottesville. You are therefore carefully and diligently to discharge the duty of colonel of the said regiment, by doing and performing all manner of things thereunto belonging; and you are to pay a ready obedience to all orders and instructions which from time to time you may receive from the Governor or executive power of this State for the time being, or any of your superior officers, agreeable to the rules and regulations of the convention or General Assembly. All officers and soldiers under your command are hereby strictly charged and required to be obedient to your orders, and to aid you in the execution of this commission, according to the intent and import thereof.

Witness Patrick Henry, Esq., Governor or Chief Magistrate of the Commonwealth, at Williamsburg, this 5th day of March in the 3d year of the Commonwealth, A. D. 1779.

P. HENRY.

## No. 7.

I do hereby certify, that William Vause was appointed a captain in the twelfth Virginia regiment in the beginning of the year 1777, and continued to act as such until the arrangement at Cumberland old court-house, when he was superseded, as an absentee: that, in the spring of the year 1783, General Muhlenberg appointed a board o' officers (of which I was president) to inquire into the circumstances of Captain Vause's case: he appeared, and made satisfactory proof to the board that he was in the western country, and could not possibly have had notice of the meeting ordered at Cumberland court house; in consequence of which, the board were unanimously of opinion that he ought to be reinstated.

Given under my hand this 25th day of November, 1784.

JAMES WOOD,  
*late Brigadier General.*

EXECUTIVE DEPARTMENT,  
Richmond, February 24, 1840.

The above is a true copy of a paper filed in this department.

WM. H. RICHARDSON,  
*Secretary Com.*

No. 8.

DEPARTMENT OF WAR,  
Bounty Land Office, March 12, 1840.

SIR: Pursuant to the request contained in yours of the 7th instant, I have the honor to send you the subjoined statement, taken from the books of this office, showing the number of land warrants of the *revolutionary class* which have issued from the 30th September, 1828, to the 1st January, 1840, inclusive; designating therein the rank of the officers, and the number of warrants issued in each year.

RANK AND GRADE.		For the year ending September 30, 1829.	For the year ending September 30, 1830.	For the year ending September 30, 1831.	For the year ending September 30, 1832.	For the year ending September 30, 1833.	For the year ending September 30, 1834.	For the year ending September 30, 1835.	For the year ending September 30, 1836.	For the year ending September 30, 1837.	For the year ending September 30, 1838.	For the year ending September 30, 1839.	Aggregate of warrants issued from October 1st, 1828, to January 1st, 1840.
Colonels -	-	-	2	1	1	1	1	1	1	1	1	1	6
Lieutenant colonels -	-	1	1	1	2	2	2	2	2	2	2	2	11
Majors -	-	8	1	1	5	5	1	1	1	1	1	1	11
Captains -	-	15	11	6	14	13	11	6	6	7	7	7	79
Lieutenants -	-	2	3	2	3	2	3	5	5	5	12	12	112
Ensigns and cornets -	-	-	-	2	1	-	4	-	-	-	1	1	21
Physicians and surgeons -	-	-	-	3	-	1	1	1	1	1	1	1	11
Surgeon's mates -	-	-	-	-	-	1	1	-	-	-	-	-	7
Deputy purveyors -	-	-	-	-	-	-	-	-	-	-	-	-	1
Assistant apothecary -	-	-	-	-	-	-	-	-	-	-	-	-	1
Rank and file -	-	146	93	68	57	70	67	46	21	19	25	16	634
Aggregate of each year -		173	119	98	102	94	97	55	39	25	49	34	894

Very respectfully, your obedient servant,  
WILLIAM GORDON.

Hon. JOHN TALIAFERRO,  
*House of Representatives.*

No. 9.

DEPARTMENT OF WAR,  
*Bounty Land Office, February 25, 1840.*

SIR: Agreeably to your request, I have now the honor to send you the subjoined list, showing the number of officers, non-commissioned officers, and soldiers of the several continental lines and corps of the revolutionary army, whose claims to bounty lands, due on the part of the United States, are, at *this date, unsatisfied*. This list is taken from one which was carefully prepared in this department in 1828, and is comprised in Senate document No. 42, 20th Congress 1st session.

Names of States and corps.	No. of officers.	No. of non-commissioned officers and soldiers.
New Hampshire - - - - -	3	50
Massachusetts - - - - -	22	286
Connecticut - - - - -	4	126
Rhode Island - - - - -	-	48
New York - - - - -	2	46
New Jersey - - - - -	2	113
Pennsylvania - - - - -	33	387
Delaware - - - - -	-	64
Maryland - - - - -	12	213
Virginia - - - - -	15	203
North Carolina - - - - -	5	64
South Carolina - - - - -	22	
Georgia - - - - -	15	
Artillery artificers, &c. - - - - -	-	25
Armand's legion - - - - -	-	181
Hazen's regiment - - - - -	-	134
Von Herr's dragoons - - - - -	-	11
Invalid regiment - - - - -	-	101
Foreign officers - - - - -	18	
Warrants on file, not delivered - - - - -	8	39
	161	2,091

Aggregate of officers, non-commissioned officers, and soldiers . . . 2,252  
Very respectfully, your obedient servant,

WM. GORDON.

Hon. JOHN TALIAFERRO,  
*House of Representatives.*

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